The Solicitors' Journal

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Current Topics.

Maxims and their Value.

AMONG the many avenues of approach to the study of the law available for the student not the least attractive, and by no means the least informative, is that of maxims, those crisp embodiments of legal principles which can so easily be memorised. Owing to a large extent to the immense influence of the Roman law upon her legal system, Scotland has taken to the maxim much more than we in England have done; indeed, in the North maxims have been regarded as possessing at least *quasi* authority, while in England the tendency in certain quarters has been to minimise their value, as, for example, was done by LORD ESHER, M.R., in the case of *Yarmouth* v. *France* (1887), 19 Q.B.D. 647, where he said: "I need hardly repeat that I detest the attempt to fetter the law by maxims. They are almost invariably misleading; they are for the most part so large and general in their language that they always include something which really is not intended to be included in them"; but despite this depreciation of their value, maxims, as LORD ROBERTSON of the Scots Bench showed in an admirable address recently delivered to the Edinburgh University Law Faculty Society and now accessible in a convenient brochure, have a real value, formulating as they do in brief form general principles accessible at a moment's notice, and further that "partly as a source, as a component, and as an aid to study" they have their use, while for the practising lawyer, towards the solution of the concrete problems with which he is periodically confronted, they at least turn his mind in the direction of enlightenment, and that is no small advantage in the effort to master what TENNYSON well termed "the lawless science of our law, that codeless myriad of precedent, that wilderness of single instances." LORD ROBERTSON'S finely phrased plea for a greater recognition of the value of legal maxims may be read with pleasure and professional profit.

Central Criminal Court: December Session.

THE Central Criminal Court opened last Tuesday with a comparatively light calendar for December. At the beginning of the week there were forty-one persons awaiting trial or sentence. Included in the list were a charge of attempted murder, two charges of causing grevious bodily harm, one each of bigamy, forgery, incest, embezzlement, and publishing an obscene libel; two each of attempting to commit suicide, conspiring to defraud, demanding money with menaces, and fraudulent conversion; three each of obtaining money by false pretences and stealing; and six of breaking and entering. There was also one charge of driving a motor car in a manner dangerous to the public, one offence against the Post Office, one offence under the Bankruptcy Acts and several charges of indecent assault.

Income Tax Codification: Views of Chambers of Commerce.

THE Association of British Chambers of Commerce has recently presented to the Board of Inland Revenue a report on the proposals for the codification of income tax law as set out in the Report and Draft Bill of the Income Tax Codification Committee (Cmd. 5131 and 5132, H.M. Stationery Office, 8s. and 4s. 6d., respectively). The association approves of a proposal which the committee described in its report as what was probably the greatest departure from the existing law which it had ventured to recommend, namely, that the allowance in respect of wear and tear of machinery or plant used in a business, instead of being made from the statutory (or assessable) income of the year of charge in which the wear and tear took place, should be treated as one of the allowable deductions in computing the statutory profits for the year of computation in which the wear and tear takes place. The association urges, moreover, the claim for a full allowance for machinery scrapped, whether replaced or not, and for more generous treatment of what is commercially regarded as revenue expenditure. The present position with regard to the deduction for repairs where rent exceeds the annual value is regarded as unsatisfactory, and it is thought that this might be remedied by a sliding scale or some system of marginal relief. There should, it is urged, be no limitation of the right to carry forward wear and tear allowances indefinitely, unless there is a substantial extension of the period of six years for which trading losses can be carried forward. With regard to taxpayers in the employment of others, the association calls for a relaxation of the present law relating to the deduction for expenses which is thought to bear hardly on the taxpayer, and following a recommendation of the Codification Committee—the subject is treated on pp. 51–55 of the latter's report—suggests that, in the case of those whose duties are carried out mainly abroad, part of their remuneration should be regarded as United Kingdom income and the rest as foreign income.

Private Companies and Sur-Tax.

Among other suggestions to which only brief allusion can be made here is one that the law should be altered to ensure that in assessing for sur-tax the profits of private companies liability should attach only to so much of the profits as represents a reasonable distribution. The association points out that if, on appeal, it is found that there has not been a reasonable distribution of profits the Special Commissioners are bound to assess the whole of the profits of a private company withheld from distribution, and not merely that part which represents a reasonable distribution, and it is urged that for this reason private companies cannot create adequate reserves. It is thought, moreover, that a taxpayer should be entitled to have issued from one district a single composite notice of assessment for all liabilities under Schedules D and E, and that he should be shown clearly what allowances have been made to him and from what assessments they have been granted. Other recommendations are that the allowance for children should be extended to cover cases of pupilage and apprenticeship to trades or professions, that a simpler scheme of Dominion income tax relief should be formulated (for which purpose an inquiry, if possible with the collaboration of Dominion representatives, should be instituted), that royalties payable to foreigners in respect of licences operated abroad should be deducted as a charge in arriving at profits, and that the cost of protecting as well as of maintaining patents should be allowed as a deduction.

The Law of Libel.

We have, on more than one recent occasion, referred to criticisms of the present law of libel and it is thought that a short indication of views expressed at a recent meeting convened jointly by the British section of the International Association of Writers and the National Council for Civil Liberties may be of interest to readers who are doubtless fully alive to the merits of the present law and to the wholesome check which, notwithstanding its occasional abuse, it imposes upon publication of defamatory matter. Miss Rebecca West dissented (we quote from *The Times*) from the attitude of some of the advocates of reform who thought it should always be necessary to prove damage in order to succeed in a libel action. Damages, she thought, ought to be restricted, but it should remain the law that it was libellous to hold a person up to hatred, ridicule, and contempt. The speaker referred to the impression gained from reading reports of certain cases in the newspapers that a person brought an action against someone who was rich and, with luck, he might get a lot of money. That idea should be dissipated, but, at the same time, it was necessary that people should know that they could not spread defamatory statements about people who were doing good work. Mr. J. B. S. Haldane regarded the Bill recently introduced in the House of Commons (and referred to in these columns in our issue of 21st November) as an absolute minimum. He thought that they could do " with a good deal more ridicule and a spot more hatred and contempt." They were, he said, signs of a healthy civilisation in which people could say what they thought. Truth was a fairly tough thing, and provided there was freedom of discussion, the truth was very apt to come out.

A Printer's View.

According to Mr. E. H. Hale, who spoke on behalf of the Federation of Master Printers, the printer's lot is not a happy one. The printer, he said, was in a quandary. It was difficult and sometimes impossible to detect a libellous statement in the manuscript of a book. If he did discover what he thought was defamatory matter he could refuse to continue printing and could claim payment for the work done. But if the author said there was no libel he might bring an action for breach of contract, and if the court found there was no libel, the printer might suffer heavy loss. The printer was in a further difficulty that he could not recover an account for printing a libel. Mr. Frere Reeves spoke from the publishers' point of view, and urged that the law should be amended so that anyone suing for libel would have to prove damage and also to prove malice. In any concerted action to that end authors would, he said, have the support of publishers.

Police Court Social Services.

In the course of a discussion with a deputation from the National Police Court Mission which waited upon him some ten days ago, the Home Secretary intimated that he had formed no final conclusion on the recommendations of the Departmental Committee on the Social Services in Courts of Summary Jurisdiction. Those recommendations were outlined in these columns in our issue of 4th April last. The deputation, which was introduced by the Archbishop of Canterbury, urged the importance of retaining the religious element in probation work and suggested that the recommendations of the aforesaid committee should be further discussed by a conference of representatives of the Home Office and representatives to be nominated by the Police Court Mission. Sir John Simon undertook to consider the representations made by the deputation and to arrange for the conference suggested.

The Judiciary Safeguarding Bill.

The attention of readers may be drawn to the terms of the short but important Judiciary Safeguarding Bill which was read a second time in the House of Lords on 24th November. The Bill—which defines " high judicial office " as the office of a Lord of Appeal in Ordinary, of a member of the Judicial Committee of the Privy Council, of a Judge of the Supreme Court of Judicature, in Scotland of a Judge of the Court of Session or of the Chairman of the Land Court, and in Northern Ireland of a Lord Justice of the Court of Appeal and of a Judge of the King's Bench Division—provides that in any statute hereafter enacted no provision for the alteration or diminution of the rights, duties, salaries or emoluments of any persons which arise from the service of His Majesty or from the holding of any commission or office shall, unless expressly stated, be deemed to apply in the case of the holders or past holders of high judicial office whose salaries are charged on the Consolidated Fund. Lord Rankeillour, who moved the second reading of the Bill, stated that the object of the measure was to make it clear that the position of the judges remained independent, not to be confounded with the Civil Service, as events in 1931 showed it had been. The Marquess of Zetland, Secretary of State for India, said the Government were as anxious as anyone in the House to see that the independence of the judiciary was ensured. The attitude of the Government, he intimated, was not merely one of benevolent neutrality but one of keen support of the object which the Bill had in view.

The Public Order Bill.

The Public Order Bill passed the Committee stage in the House of Commons on 26th November. In the course of the debate objection was taken to sub-cl. (4) of cl. 3, which is concerned with powers for the preservation of public order on the occasion of processions. The sub-clause in question provided that any person failing to comply with any directions given or conditions imposed under the section, or who organised or assisted in organising any procession held or intended to be held in contravention of an Order made under the section, or who incited any person to take part in such a procession, should be guilty of an offence. The Home Secretary, while insisting that there must be provision made in the Bill for the punishment of offenders in proper cases, thought that the point made that there might be a possibility of persons being charged with an offence when they had no knowledge of the directions which had been laid down was a good one. If an amendment to delete the sub-clause were withdrawn he would be prepared to accept an amendment to insert the word " knowingly " so as to meet the point raised. This was done, and a motion to insert the word was agreed to.

Infanticide: Proposed Alteration of Law.

THE Infanticide Bill, the text of which was issued last Friday week, provides that under certain prescribed conditions a woman who "wilfully causes the death of her child being under the age of eight years" may be convicted of infanticide. Under the terms of the Bill a woman shall be guilty of infanticide, and not murder, if at the time of any wilful act or omission which caused the child's death (*a*) she had not fully recovered from the effects of giving birth to such child, or (*b*) she was in such distress and despair arising from solicitude for her child or extreme poverty or other causes that by reason thereof the balance of her mind was then disturbed. For such an offence it is proposed that the woman may be dealt with and punished as if she had been guilty of manslaughter, the jury being empowered (as under the Infanticide Act, 1922) to return a verdict of infanticide. The provisions under paragraph (*b*) *supra*, would appear to cast the net dangerously wide. Nothing in the Bill, it is provided, would affect the power of a jury upon an indictment for the murder of a child under eight to return a verdict of manslaughter or of guilty but insane, or, where the child was newly born, one of concealment of birth. The offence of infanticide was, it may be remembered, created by the Act of 1922, which provides that where a woman by any wilful act or omission causes the death of her newly-born child under such circumstances that but for the Act the offence would have been murder, but at the time of the act or omission she had not fully recovered from the effect of giving birth to the child, and by reason thereof the balance of her mind was then disturbed, she shall be guilty of the felony of infanticide, and may be dealt with and punished as if she had been guilty of manslaughter of the child.

Sharing a Taxi-Cab.

READERS may remember the case referred to in these columns in our issue of the 16th May last, in which the not uncommon practice of agreeing to "share a taxi-cab" was held to be illegal in view of the fact that a public service licence is not taken out with this class of vehicle. Section 61 of the Road Traffic Act, 1930, as amended by s. 24 of the Road Traffic Act, 1934, defines stage carriages and express carriages, for which public service vehicles licences are required, with the proviso that a motor vehicle adapted to carry less than eight passengers shall not be deemed to be a stage carriage or an express carriage by reason only that on occasions of race meetings, public gatherings and other like special occasions it is used to carry passengers at separate fares. Under the terms of Sir ASSHETON POWNALL'S Road Traffic Bill, the text of which was issued last Saturday, it is proposed that a further proviso be inserted to the effect that vehicles adapted to carry fewer than eight persons shall not be deemed to be within the aforesaid descriptions by reason only that they are used to carry passengers at separate fares on journeys in regard to which certain conditions are satisfied. The following are among the conditions specified. The number of persons carried must not exceed four, the making of the agreement under which any of the passengers pays his separate fare must not have been initiated by the driver or owner of the vehicle, and the journey must be made without previous advertisement to the public of facilities for its being made by passengers to be carried at separate fares. Moreover, the journey must not be one on which passengers are carried at separate fares frequently, or as a matter of routine, in the same vehicle, nor must it be made in conjunction with, or in extension of, a service provided under a road service licence, if the vehicle is owned by, or made available under any agreement with the holder of the licence. The object of the Bill, which, in its present terms, appears to leave something to be desired in the direction of precise draftsmanship is, of course, to render legal a practice in which many have doubtless indulged without knowing that it was contrary to law.

Recent Decisions.

IN *Chandarasekera alias Alisandiri* v. *The King*, which is referred to in *The Times* of 26th November, the Judicial Committee of the Privy Council dismissed an appeal against a conviction of murder by the Supreme Court of Ceylon. The ground of appeal was that the victim, whose throat had been cut, was unable to speak when questioned, and when the appellant's name was mentioned as her assailant nodded her head, and that such testimony was not "oral" as required by the Evidence Ordnance. Such evidence, the Board intimated, was as conclusive as though it had been given in the deaf and dumb alphabet, and those signs would have been admitted by any court.

In *Rex* v. *Jackson* (p. 977 of this issue), the Court of Criminal Appeal dismissed an appeal against a conviction of murder at the Durham Assizes. The Court of Criminal Appeal did not, the Lord Chief Justice intimated, exist to hear further evidence for the purpose of correcting an entirely immaterial mistake or omission in the court below which could not have had any effect on the verdict, while, on the argument that the summing up did not contain the particular expressions employed in *Woolmington* v. *Director of Public Prosecutions* [1935] A.C. 462—a case to which, it was said, far too much importance had been attached—the summing up did leave it open to the jury to reduce the crime to manslaughter if they felt any reasonable doubt.

In *Re Mills: Marriott* v. *Mills* (p. 975 of this issue), Bennett, J., gave an interesting decision on the meaning of the word "belongings." This decision is more fully discussed in "A Conveyancer's Diary," at p. 967.

In *Lyons* v. *Collins* (*Inspector of Taxes*) (p. 974 of this issue), the Court of Appeal dismissed an appeal from a decision of Lawrence, J., and held that, where it was established that "a person of skill" appointed to value property by the General Commissioners under s. 138 (1) of the Income Tax Act, 1918, had given a valuation which could not be impeached on the face of it as bad in law, the annual value for the purposes of Sched. A or Sched. B was to be determined in accordance with that valuation. With regard to the powers of the Commissioners to question the person appointed as to the principles on which he had proceeded in his valuation, Slesser, L.J., intimated that when the person of skill had completed his valuation he was *functus officio*, and the most that the Commissioners were entitled to do was to ask him to explain some ambiguity in his statement, for which purpose the valuation might in appropriate cases be remitted to him.

In *Scott and Others* v. *Inland Revenue Commissioners* (*The Times*, 28th November), the House of Lords upheld the decisions of Bennett, J., and the Court of Appeal to the effect that on the death of the sixth Earl Cadogan certain estates passed to the seventh Earl within the meaning of s. 1 of the Finance Act, 1894, and accordingly became liable to estate duty. In 1893 the fifth Earl bought the life interest of his younger son in the estates in question which was settled upon discretionary and other trusts. In the events which happened that son succeeded as sixth Earl and his estate became a life estate in possession vested in the trustees of the settlement aforesaid. He died in 1933 and was succeeded by his only son, who became seventh Earl and tenant in tail male in possession of the estates. The argument that the dealing with the sixth Earl's life estate was of such a nature as to prevent the property passing on his death was negatived.

In *Canning* v. *Maritime Insurance Co., Ltd.* (*The Times*, 28th November), an action under a marine insurance policy in respect of a ship which foundered some ten miles from the Isle of Wight failed. Branson, J., expressed himself as satisfied that the plaintiff, who was himself acting as chief engineer at the time, removed the non-return valve in the bilge injection and had also opened the sluices which would allow water which had thus entered the engine room to flow into the hold and destroy the reserve buoyancy.

The New County Court Rules.

(*Continued from p. 945.*)

Admiralty Actions.

THE description of the plaintiff in the case of damage to cargo as "owner of cargo lately laden on board the steamship ——," as used in the Admiralty Division, is sanctioned by the new Ord. XXV, r. 4.

Order VIII, r. 2, excluding independent process servers from employment in personally serving documents, is applied by the new Ord. XXXV, r. 7, to service of a summons in an Admiralty action.

The ten days after the appeal or the delivery of the statement of claim within which a defendant must file a defence in respect of a set-off or counter-claim and deliver a copy to the plaintiff, and the six days from receipt thereof within which the plaintiff may file a reply and deliver a copy to the defendant will not be extended by the court under the new Ord. XXXV, r. 21. The words "or within such further time as may be allowed by the court" in the old Ord. XXXIX, r. 28, are omitted from the new rule.

An application by a defendant to dismiss an action where a plaintiff who has been required to file a statement of claim or a preliminary act does not file it within the time allowed, will be capable of being made to the registrar as well as to the judge, under the new Ord. XXXV, r. 25.

The High Court rule that a defendant may apply to have an action dismissed for want of prosecution where, within six months after the date when an application could have been made to set the action down for hearing this has not been done (R.S.C., Ord. XXXVI, r. 12), is applied with necessary modifications to Admiralty cases in the county court. The application to dismiss can be made either to a judge or a registrar (Ord. XXXV, r. 27).

Notice to a party requiring bail, where it is to be taken before a registrar, will not under the new Ord. XXXV, r. 31, have to be served by the party giving bail "on the party requiring bail before six o'clock on the day before that which is appointed for taking the bail" (old Ord. XXXIX, r. 40). These words are omitted from the new Ord. XXXV, r. 31, which requires the registrar to send notices in Forms 291 and 292 to the party giving bail and the party requiring bail respectively to attend at court at the time stated in the notice.

Where leave has been given to notify a judgment or order by advertisement or otherwise, the minimum of ten clear days which the old Ord. XXXIX, r. 61 required as the period to be stated in the notice of the judgment or order in which owners and persons interested may file a præcipe for a re-hearing, does not appear in the new Ord. XXXV, r. 38 (5).

Where the parties agree to an assessment of damages by the registrar, or an assessment of damages is ordered or an interlocutory judgment is signed, the registrar must proceed under the new Ord. XXXV, r. 52 (1), as if the assessment of the amount to be recovered were a question referred to him for inquiry and report, and Ord. XIX, r. 2, applies. Thus, the old rules disappear which require the claimant to file particulars of claim together with all original vouchers within seven days, and serve copies on the adverse parties, and the registrar to give four days' notice of the time and place of the hearing to all the parties (old Ord. XXXIX, rr. 97 and 98). The registrar can no longer be required to state the reasons for his decision (old Ord. XXXIX, r. 2). The old period of seven days from the service of the notice of the filing of the report for either party to lodge an objection still stands (Ord. XXXV, r. 52 (2)).

The notice required for applications to consolidate actions will be at least one clear day (Ord. XXXV, r. 54 and Ord. XIII, r. 1 (*b*)), instead of at least two (old Ord. XXXIX, r. 53A and old Ord. XII, r. 11 (1)).

It is also provided that, subject to the rules of Ord. XXXV, the procedure in an Admiralty action shall be regulated by the other provisions of the County Court Rules so far as they are applicable to Admiralty actions (Ord. XXXV, r. 57). The result is that the new Ord. XXXV contains about half the number of rules that the old Ord. XXXIX contained.

Payment into Court by Trustees.

On an application to the court for the investment or payment out of court of any money or securities paid into court or for directions as to the mode of dealing with any thing in action lodged in court under s. 63 of the Trustee Act, or s. 136 of the Law of Property Act, 1925, the following rules apply: (*a*) The application can be made to the judge *ex parte*. (It is made by petition under the old Ord. XXXVIII, r. 23.) (*b*) At the hearing of the *ex parte* application the judge can require notice to be served on such person as he thinks fit and fix a day for the further hearing. (Under the old Ord. XXXVIII, r. 24, all persons interested have to be served unless the judge otherwise directs.) (*c*) No affidavit will be necessary in the first instance, but the judge may direct evidence to be adduced in such manner as he thinks fit.

It is also provided that the judge may of his own motion order any money in court to be invested, and if no application for the investment of money in court is made within a reasonable time, the registrar must bring the matter to the attention of the judge (Ord. XXXVIII, r. 3).

General provisions.

Where a party who has acted in person appoints a solicitor to act for him, except as advocate at the trial, he or the solicitor must give notice of the appointment to the registrar and to every other party, with the solicitor's address for service (Ord. XLVIII, r. 11 (2)).

On the other hand, if a party for whom a solicitor has acted desires to act in person, he must give notice to the registrar and to every other party, stating his intention to act in person and giving an address for service (Ord. XLVIII, r. 11 (4)).

Where two or more plaintiffs and defendants are represented by the same solicitor, it is sufficient for one copy of a document to be filed, served, delivered, sent or given, even though any rule should require as many copies as there are plaintiffs or defendants (Ord. XLVIII, r. 11 (5)).

The old Ord. LIV, r. 8, that it shall not be necessary for any party to proceedings in a county court to give notice to any other party or to the court of his intention to employ counsel is retained in the new Ord. XLVIII, r. 12 (1); but its effect is somewhat mitigated by a new rule that, where a pleading or document is settled by counsel, it shall be signed by him.

The plaint note is specifically added by the new Ord. XLVIII, r. 19 (1), to the documents of which a duplicate may be issued upon proof of loss or destruction, and an application for a duplicate plaint note must be in Form 378 (Ord. LXVIII, r. 19 (2), and see old Ord. LIV, r. 26).

The words "upon prepayment of the costs of such copies" are omitted from the new Ord. XLVIII, r. 20, which provides that a copy of any document in the custody of the court shall be prepared by the registrar for any person entitled to require it (see old Ord. II, r. 7).

Landlord and Tenant Act, 1927.

All proceedings under this Act are to be commenced by originating application (Ord. XL, r. 3) and not by plaint and ordinary summons, or merely by summons, as hitherto (old Ord. LB, rr. 5 and 16).

Under the old Ord. LB, r. 9, it is provided that a defendant *may* within fourteen days after service on him of the summons file a statement of his grounds of defence (if any) and also a statement (with particulars) of any counter-claim or set-off. It is now provided that, where an application is made under ss. 1, 4, 5 or 8 of the Act, the defendant *must* within fourteen days of the service of the copy of the application file an answer stating the grounds on which, and the extent to which, he resists the claim, together with two copies of his answer.

Agricultural Holdings Act, 1923.

Proceedings in a county court under this Act, other than a special case stated by an arbitrator, will have to be commenced by originating application (Ord. XLI, r. 1). This would apply to an application for an order to state a case (Ord. XLI, r. 2) or for the removal of an arbitrator, or for setting aside an award (Ord. XLI, r. 4) or for an order that money awarded for compensation or costs, etc., shall be recoverable as money ordered to be paid by a county court under its ordinary jurisdiction is recoverable (Ord. XLI, r. 6).

(*Concluded.*)

[NOTE.—It may interest readers of the series of articles on this subject concluded in this issue, to know that two further articles will appear dealing with the question of Costs in relation to the new County Court Rules. These will appear under the title of "Costs" in our next two issues.—ED., *Sol. J.*]

Privy Council Appeals in Northern Ireland Matters.

THE present position as regards the right of appeal from the courts of the dominions to the Privy Council was shown in a recent article contributed to THE SOLICITORS' JOURNAL (80 SOL. J. 828). By way of comparison, it may be of interest to indicate the matters in which appeals can reach that Council from Northern Ireland.

Before the Act of Union of 1800, Ireland was a separate kingdom under the English crown; and one might expect to find that there existed in that period some system of appeals from the courts in Ireland to the King in Council. But—at any rate, when the settlement of Ireland was well advanced—no such system existed. Appeals from the Irish courts were taken to the House of Lords, and the controversies of the eighteenth century ranged round the question whether the English or the Irish House of Lords was the ultimate appellate tribunal. The judicial superiority of the English House was affirmed in 1719, and renounced in 1783, and by the Act of Union it was provided that all writs of error and appeals from the Irish courts should be finally decided by the House of Lords of the United Kingdom. The Appellate Jurisdiction Act, 1876, made no material change in the position.

The Government of Ireland Act, 1920, which established within the United Kingdom a separate Parliament and Government, and a separate judiciary, for Northern Ireland, preserved the appeal from the courts to the House of Lords. Indeed, that Act may be said to have widened the scope of appeal from Northern Ireland courts by including an appeal (not previously competent) in proceedings taken by way of *certiorari*, *mandamus*, *quo warranto* or prohibition, and also an appeal in cases where questions arise in the courts as to the validity of a law passed by the Northern Ireland Parliament. The Act of 1920 went further than this, because it made special provision for the decision of certain questions—not arising in the ordinary courts—by way of reference to the Judicial Committee of His Majesty's Privy Council.

Such a reference may be made under s. 51 of the Act, if it appears to the Governor of Northern Ireland or a Secretary of State expedient in the public interest that steps shall be taken for the speedy determination of the question whether an Act, or provision of an Act, of the Northern Ireland Parliament, or a Bill, or provision of a Bill, introduced in that parliament, is *ultra vires*, or whether an administrative service has been transferred by virtue of the Act or not. A reference may be made also under the same section if the Joint Exchequer Board (who determine the financial relations between the Exchequers of Northern Ireland and the United Kingdom) are desirous of obtaining the decision of any question of the interpretation of the Act in connection with their duties thereunder. The Governor, or Secretary of State or Board makes in such a case a "representation" to His Majesty in Council, and the reference to the Judicial Committee is made by Order in Council. Upon the hearing of the question, interested parties may be allowed to appear and be heard as parties to the case, and the decision of the Judicial Committee is to be given "in like manner as if it were the decision of an appeal, the nature of the report or recommendation to His Majesty being stated in open court."

As yet, only one such appeal has come before the Judicial Committee, and it was fully reported in THE SOLICITORS' JOURNAL (80 SOL. J. 404). By s. 3 of the Finance Act (Northern Ireland), 1934, the Parliament of Northern Ireland required local authorities to levy a rate for the purpose of procuring a contribution towards central State expenditure on education. The Corporation of Belfast challenged the section, on the ground that, in effect, the rate so imposed was a tax substantially the same in character as income tax, and, as such, was outside the competence of the Northern Ireland legislature by reason of s. 21 (1) of the Government of Ireland Act. The Judicial Committee upheld the validity of the enactment, on grounds for which the reader is referred to the report. It may here be noted, however, that the Committee had, at the outset, to determine the procedure by which the precise points at issue should be stated for the purpose of the hearing. They decided, on a petition for directions, that the Corporation should be treated as appellants and the Government of Northern Ireland as respondents; that, before the hearing, the Corporation should furnish the Government with a statement of their case; and that the Government should then furnish the Corporation with their statement in reply. The reference itself was in general terms—i.e., whether the section was beyond the powers of the Northern Ireland Parliament. The exchange of cases between the appellants and respondents enabled the question to be confined to the points actually argued and decided.

Section 52 of the Government of Ireland Act provides that if any decision of the Joint Exchequer Board under the Act involves a decision with respect to any question of law, any person may petition His Majesty in Council to refer the question to the Judicial Committee, and that, if His Majesty so directs, the question shall be referred to and heard and determined by the Committee. No appeal has yet been taken under this enactment.

When dealing with the subject of Privy Council appeals from Northern Ireland, it seems appropriate to mention certain functions of the Privy Council of Northern Ireland. That body has an ancient pedigree; it was established by statute in 1922 (13 Geo. 5. sess. 2, c. 2), in order that anything which, prior to the first appointment of a Governor, might have been done by, to, before or with the advice or concurrence of the Privy Council of Ireland or any committee thereof, should as respects Northern Ireland be done by, to, before or with the advice or concurrence of the Northern Ireland Council or a corresponding committee of that Council. The Irish Privy Council had come into being in the middle ages and may, perhaps, when constitutional arrangements were still fluid, have exercised at times a power of reviewing a judicial decision. As regards the early seventeenth century, a contemporary complained that many of the inhabitants of Ireland resorted to England with causeless complaints, after they had received legal trial and judgment in Ireland and even "after, upon pretence of some equity or commiseration, it is summarily heard there [i.e., in Ireland] again before the state there at the Council board." Be that as it may, the Northern Ireland Privy Council has inherited from its predecessor a few statutory powers of a quasi-judicial character. It is possible, for instance, to appeal to the Governor in Council against fishery byelaws made by the Ministry of Commerce. A general rule under the Poor Relief Acts may be questioned by a similar procedure,

Modern legislation has already abolished two jurisdictions which are of sufficient interest to be mentioned here. The first (superseded in 1906) arose under the Labourers (Ireland) Act, 1885, which substituted the Lord Lieutenant in Council for Parliament as the authority to confirm "provisional orders" for the compulsory taking of land. Objectors could appeal to the Council by petition, and, after hearing the petitioner, or giving him an opportunity of being heard, the Lord Lieutenant in Council might confirm (with or without amendment) or disallow the provisional order. The Local Government (Ireland) Act, 1898, set up a similar procedure for the compulsory taking of land to widen an old road or make a new road. The judge of assize made the order on petition of the county council, if there were no objections; if there were objections, the judge heard them and decided whether to make or refuse the order; the judge's decision, where there had been objections, was subject to appeal to the Lord Lieutenant in Council; and the appeal was to be heard "by a committee of the Privy Council (which shall be styled the Judicial Committee) consisting of such members thereof as are or have been judges of the Supreme Court, who, or a quorum of whom consisting of not less than three, shall advise the Lord Lieutenant thereon." This last-mentioned procedure was not resorted to after the establishment of the Privy Council of Northern Ireland, and in the year 1934 it was replaced by a procedure according to which vesting orders may be made by a Government department, subject to an appeal to the High Court.

It would be hard to maintain that there are not sufficient methods for the determination of constitutional questions arising in the course of administration in Northern Ireland. So far, appeals in which those questions arise have been few. But the mere presence on the statute book of provisions for determining them is a safeguard for the rights of the individual.

Company Law and Practice.

Calls by a Liquidator.—II.

CONTINUING my examination of some of the points arising under this heading, I now come to the enforcement of the call. The liquidator can proceed either by summons or by writ, and he can enforce calls made before the commencement of the winding up, as well as calls made in the winding up in the manner indicated in last week's article. If the liquidator is experiencing difficulty in collecting a call, he will usually apply to the court by summons for an order to be made in chambers known as a balance order—see r. 88 of the Companies (Winding Up) Rules, 1929—though in cases where there is a substantial dispute as to the contributory's liability the liquidator should bring an action. No action will lie to enforce a balance order which has been obtained in this way: *Chalk, Webb & Co.* v. *Tennent*, 36 W.R. 263; but the order, though not a judgment (see *In re Hubback*, 29 Ch. D. 934), is enforceable by execution as a judgment against a party within the jurisdiction, and execution issues on proof of service of a copy of the order duly endorsed as required by R.S.C., Ord. 41, r. 5. The making of a balance order in respect of certain shares does not, however, prevent the bringing of an action by specially indorsed writ for the enforcement of a call made by the company before the commencement of the winding up in respect of the same shares. This was the question at issue in the leading case of *Westmorland Green and Blue Slate Company* v. *Feilden* [1891] 3 Ch. 15, when it was argued on behalf of the contributory that the old obligation and remedy by action were after the making of the balance order merged in the *res*; that the liquidator need not have applied for a balance order at all; but that having done so and got his order he could not go behind it and return to the old remedy by action. Kekewich, J., and the Court of Appeal refused to accept this argument. The following extract from the judgment of Lindley, L.J., will suffice to make the position clear: "Assuming then," said the learned lord justice, "that the appellant (i.e., the contributory) was a member of the company, and that the calls were duly made, they constitute a specialty debt due from him. The liquidator then brings an action for them in the name of the Company. What is the answer? 'You, the liquidator, got a balance order, and that precludes you from suing in respect of the original debt.' Now what is the history and nature of balance orders? A balance order is made under provisions in the Companies Act, which confer on the court the power of making summary orders for the purpose of getting in the estate. It is not contended that the remedy by balance order is the sole remedy, it is not disputed that the liquidator is not bound to resort to it. In former times the court often refused to make a balance order, and directed the liquidator to bring an action. But it is said that though the liquidator was not bound to resort to this remedy, he did resort to it and obtained an order, and that the original right of action is merged in the order. Now is there any merger? The more closely the matter is looked into, the more clear it appears that technically there cannot be a merger. The balance order is an order for payment to the liquidator, not to the company. That is a technical ground; but behind it there is a matter of substance. The liquidator has recourse to the summary process, it turns out that the appellant is abroad, so the balance order is worthless. It is contended that as the liquidator has got this order, he must rely on it alone and make the best of it, that the right of action is merged in the order, and that no action can be brought. I have looked carefully into the cases and can find none where a mere summary order has been held to produce a merger . . ." Thus the two remedies remain, and the liquidator has the choice between an action and a summons for a balance order. If he chooses the latter course and his order turns out to be useless, he will not have prejudiced his position, for he can still bring an action and hope to recover the call in that way. If, however, he discontinues an action which is already in being and takes out a summons, the contributory will be entitled to have the costs of the discontinued action deducted from any sum which the liquidator may recover against him on the summons: *In re United Services Association* [1901] 1 Ch. 97. In winding up proceedings the liquidator may recover the amount due to the company from the contributory without setting off against it any debt due to the contributory from the company, and this is so even where, as in *In re Hiram Maxim Lamp Company* [1903] 1 Ch. 70, the company has sued a shareholder before liquidation, a defence of set-off has been pleaded, but a winding up has supervened before judgment, and the liquidator takes out a summons in the winding up for a balance order. The two debts are separate and distinct, and until a final judgment has reduced them to one, each original debt remains and can be sued for without regard to the other. This rule does not, however, apply where the contributory is bankrupt. In such a case, whether the liquidator is making his claim in the bankruptcy or in the winding up, he must set off against his claim any debt which the company owes to its bankrupt member: *In re Duckworth*, L.R. 2 Ch. 578; *In re Universal Banking Corporation*, L.R. 5 Ch. 492. The liquidator's rights and remedies against a bankrupt contributory are regulated by s. 161 of the Companies Act, 1929, which provides that: "If a contributory becomes bankrupt either before or after he has been placed on the list of contributories—(1) his trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company: and (2) there may be proved against the estate of the bankrupt the estimated value of his liability to future

calls as well as calls already made." The same remedy is available to the liquidator where a contributory has died and his estate is insolvent. The liquidator will then be able to prove in the administration of the estate in the same way as in bankruptcy, and he has the same important right to prove for the estimated future liability as well as for the amount actually due on calls already made: *In re McMahon* [1900] 1 Ch. 173.

The legislature has provided another safeguard which is now contained in s. 218 of the Act of 1929. In practice it is but rarely that it is found necessary to resort to it, but it is, nevertheless, well worth our while to glance at it for a moment. The section provides that the court "on proof of probable cause for believing that a contributory is about to quit the United Kingdom, or otherwise to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination . . . may cause the contributory to be arrested, and his books and papers and moveable personal property to be seized . . . " The section really speaks for itself. An order for the seizure of property (which will not include real property as the section is silent on that point) will not necessarily be accompanied by an order for the arrest of the contributory if there is no ground for anticipating his quitting the United Kingdom: *In re Imperial Mercantile Credit Company*, L.R. 5 Eq. 264.

Before finally leaving this subject, there is one further point which I should like shortly to mention. It may sometimes happen that at the commencement of the winding up the liability of the contributory in respect of shares not fully paid up is not an immediate liability. He may have agreed to take up the shares on the terms that the full amount payable shall be paid by instalments at certain fixed times, which have not yet arrived. Such an agreement is not, however, binding on the liquidator. Thus, in one case, shareholders in one company accepted shares in a new company, and it was agreed that the new shares should be paid for in instalments on certain specified dates. Before the time for the payment of all the instalments had expired the new company was wound up. It was held that the contract for payment by instalments was determined by the winding up, and that the liquidator was entitled to make an immediate call for the whole amount remaining unpaid: *In re Cordora Union Gold Company* [1891] 2 Ch. 580; and see *London Provident Building Society* v. *Morgan* [1893] 2 Q.B. 266, for a somewhat similar case under the Building Societies Act, 1874. It has also been held that provisions contained in the articles of a company as to payment of interest on calls do not apply to calls made by a liquidator in a winding up, so that in the absence of any intimation by the liquidator as to what rate of interest will be required interest will not necessarily be allowed at the rate specified in the articles: *In re Welsh Flannel and Tweed Company*, L.R. 20 Eq. 360.

A Conveyancer's Diary.

The Meaning of Words in Wills—"Belongings."

A RECENT case reported in *The Times* for 2nd December calls attention once more to the difficult question of the construction of wills and the meaning to be attached to certain words or phrases employed by testators.

Generally speaking, the judges in these days are disposed to ignore precedent and not rigidly to adhere to the construction of words or expressions adopted by other judges in other cases. Sometimes, however, earlier authorities are followed, and not always without defeating what an ordinary person might with justice think was the intention of the testator.

The case to which I have referred is *Re Mills: Marriott* v. *Mills* [also reported at p. 975 of this issue].

In that case a testatrix made a will, which, so far as material, was in the following terms: "I hereby revoke all wills made by me at any time heretofore. I appoint Florence Marriott to be my executor and direct that all my debts and funeral expenses shall be paid as soon as conveniently may be after my death. I give and bequeath unto my daughter Florence Marriott all my home and personal belongings except the piano and that is for my grandson John William Shephard and all insurance to go to my daughter Florence Marriott."

The report in *The Times* states that at the time of her death the testatrix had £147 cash in the house, £679 16s. 3d. money on deposit in the Nottingham Savings Bank, household furniture of the value of about £25 (including a piano), £59 9s. 6d. payable under policies of insurance, and money on loan estimated at about £50.

The issue in the summons was what passed under the words "personal belongings." Did those words include all the estate of the testatrix other than the piano and the insurances, or was there an intestacy regarding the cash in the house, the money on deposit at the savings bank and money on loan?

I confess that, looking at that will, apart from anything that I may call prejudice created by any earlier decision, I should have thought that "all my home and personal belongings" meant the furniture and personal effects which were in or constituted her "home." In some circles it is a common expression "I sold up my home" or "I lost my home," meaning that the chattels in the home had been disposed of, and it would not have occurred to me that "personal belongings" included money in a savings bank or money out on loan.

Bennett, J., however, took a different view, holding that the expression "personal belongings" comprised all the estate of the testatrix other than such part as was specifically excepted.

It is interesting that, although, in construction summonses, authorities are not looked upon with much favour, the learned judge based his decision upon that of Eve, J., in *Re Bradfield* [1914] W.N. 423.

In that case the facts were that a testatrix made her will as follows (so far as material): "Dressing bag and all silver with my initial on it to Mary Robertson big brooch necklace baby robe books pictures and all other belongings to my sister Helen Mary except what books Gordon (my brother) may choose watch and all jewellery (except what is mentioned above) and all lace to my sister Jeanie Louise Harrison any money to my account to my nephew Linden Temple Harrison two scarf pins and my father's diamond ring to my brother Gordon." A codicil bequeathed two legacies of £100 each.

Eve, J., held that "belongings" must be given its primary meaning of "property" and "all other belongings" covered all that the testatrix did not specifically dispose of, and that "money to my account" did not include money in the hands of trustees to which the testatrix was entitled.

Bennett, J., in *Re Mills*, held that he must give the same meaning to "my home and personal belongings" as Eve, J., gave to "all other belongings" in *Re Bradfield*. His lordship seems also to have been inclined to that opinion because, as he said, "the court leans against an intestacy"—a doctrine which is a somewhat broken reed to rely upon in these days.

There are numbers of cases in the books where a different construction has been placed upon the same words as used in a will. Context, of course, has much to do with it. But there is also the consideration that the use of words alters in course of time. Perhaps, one of the best illustrations of this is the word "securities," which even now raises difficulties, although it cannot be denied that as employed both colloquially and in contracts and other legal documents is, in the absence of some definite context to the contrary, synonymous with "investments."

Some of the cases on that point are of great interest. At one time the word was certainly construed in its strict (and at the time of the decisions no doubt commonly used) sense.

Thus, in *Huddlestone* v. *Gouldsburg* (1847), 10 Beav. 547, the question before the court was whether certain canal shares came within the description "bonds and securities." There Lord Langdale, M.R., said: "I am of opinion that a share in a canal company cannot be deemed to be property invested in security. A share in a canal company is property which may be bought and sold without reference to any sum given for or secured by it. It is not a security for money, but the property itself which is bought or sold."

Again, in *Harris* v. *Harris* (1861), 29 Beav. 107, it was held that a power to invest "upon the security of funds of any company incorporated by Act of Parliament" did not authorise investment in preference shares of a railway company. And in *Ogle* v. *Knipe* (1869), 8 Eq. 434, there was a gift in a will of "all my money and securities for money" and it was held that Bank of England stock and shares in a canal company did not pass under the bequest.

On the other hand, in *Re Rayner* [1904] 1 Ch. 179, and in *Re Gent and Eason's Contract* [1905] 1 Ch. 386, the word "securities" was held to include stocks and shares, but upon the ground that there was sufficient context in the will in each of those cases to show that the testator used the word "securities" in the wider sense of "investments." In fact, in the latter case, the testator used the words throughout as interchangeable terms.

In *Singer* v. *Williams* [1921] A.C. 41, the House of Lords held that "securities" as used in Case 4 of Sched. D under s. 101 of the Income Tax Act, 1842, must be construed in its strict sense, and did not comprise stocks and shares. That, however, was not a case upon the construction of a will.

I think that at the present time any business man using the word "securities" in his will would intend it to mean "investments" and to include stocks and shares, although that might, perhaps, not have been so when *Huddlestone* v. *Gouldsburg* and *Ogle* v. *Knipe* were decided. In fact, in an unreported case in which I appeared, Maugham, J. (after referring to the "Oxford Dictionary") so held, without the assistance of any context in the will itself.

Landlord and Tenant Notebook.

Responsibility for Drains.

"Out of sight, out of mind," if not a legal maxim, is one which has been frequently illustrated by landlord and tenant cases concerning drains. Though the well-known decision of *De Lassalle* v. *Guilford* [1901] 2 K.B. 215, C.A., affords an instance to the contrary, it is common for intending tenants who think of everything else to overlook the important question of the state of the drainage apparatus. And while in that case the tenant scored a victory in his action for breach of a verbal warranty, it must be borne in mind that it was essential to his success that the written lease "did not cover the whole ground, did not contain the whole of the contract between the parties," as well as that he would not have taken the lease unless the drains had been guaranteed.

We are not given details of the exact nature of the cause of the trouble in the above case. Its effects were illness, and the plaintiff, it is stated, had to make an alteration in the system; but as to what exactly went wrong, all we are told is that the drains were not in good order. From the judgment, delivered by A. L. Smith, M.R., we glean that the lease contained covenants to repair, the plaintiff being responsible for inside, the defendant for the outside. His lordship observed that he would suppose that these would cover repairs to drains; but this observation can be considered an *obiter dictum*, as the representation sued on related to a state of affairs obtaining before the term commenced.

Hence it may be of interest to consider whether, and if so when, liability under a covenant to repair extends to drains. In the earlier case of *Huggall* v. *McKean* (1884), Cab. & Ell. 391, a tenant sued his landlord on a covenant by the latter to expend a specified sum before a specified date on the execution of "such repairs as shall be necessary." Another covenant obliged the tenant after that date to keep the drains and sewers in good and tenantable repair. A violent eruption occurred during the latter period, doing a good deal of damage; it was found to have been caused by the choking of a pipe leading to a drain, which pipe was not part of the drain itself. It appeared that if the drain had been altered, the choking of the pipe would not have occurred. The plaintiff had the damage made good, and sued for the cost. But it was held that the defendant's obligation had not extended to the rectification of a defect which did not render the drains useless.

Much the same line was taken by the court in *Re Barney, Harrison* v. *Barney* [1894] 3 Ch. 562. A will provided that parties beneficially entitled to certain premises should keep them in good and absolute repair. When the local authority ordered the construction of new drains, under the Public Health Act, 1848, ss. 49 and 90 (see now Public Health Act, 1875, ss. 23, 213), it was held that the cost did not fall upon the beneficiaries in question.

It may be observed that since those two decisions a somewhat more liberal interpretation has been placed upon the term "repair" than that which formerly obtained. Formerly, according to *Lurcott* v. *Wakely and Wheeler* [1911] 1 K.B. 905, C.A., the word meant, or its meaning involved, replacement or renewal of subsidiary parts of a whole. But in *Bishop* v. *Consolidated London Properties Ltd.* (1933), 102 L.J. K.B. 257 (see 77 Sol. J. 652), Goddard, J., held that a gutter-pipe blocked by the body of a dead pigeon was out of repair, the term "to repair" meaning "to make fit again to perform its functions: to put in order." Observe that the word "again" does not occur in the second part of this definition. That being so, I would suggest that whether the remedying of a defect which renders a drainage system unfit to perform its functions, and whether the supplying of a deficiency which prevents a house from complying with a statutory standard of fitness to perform its functions, fall within the extended meaning, would depend on whether or not "to put in order" is limited to putting into such order as the original nature of the subject-matter would demand.

It is not enough that an intending covenantor's surveyor should inspect drains, and that his solicitor should peruse the repairing covenant. The activities of local authorities under the Public Health Acts combined with those of conveyancers drafting covenants to pay outgoings have to be taken into consideration. However, four decisions may be said to cover the ground.

In *Lyon* v. *Greenhow* (1892), 8 T.L.R. 457, a landlord sued his tenant for money paid on the defendant's behalf. The plaintiff had been served with a nuisance order under the Public Health Act, 1875, s. 94, requiring him to abate a nuisance consisting of the absence of proper drainage. He refused: the council had the work done and collected the expenses from him. The defendant had covenanted to pay "rates, taxes and assessments." These words, it was held, did not cover the provision of a new drain.

But in *Stockdale* v. *Ascherberg* [1904] 1 K.B. 447, C.A., a covenant entered into by the defendant tenant obliged him to pay "all outgoings in respect of the premises," and the plaintiff, his landlord, successfully recovered £83 10s. (and costs) in otherwise similar circumstances. As the tenancy agreement was for three years at an annual rent of £55, the decision has often been cited as a hard case; economically, the price of the work done was, of course, in the nature of capital expenditure (see Walford's "Hints on Draft Leases," Ch. II (A)). Perhaps there will some day be "a law against it"; in the meantime, bargains such as these are enforceable.

The third case was a curious one, but not so curious as to be unlikely to occur again. In *Howe* v. *Botwood* [1913] 2 K.B. 387, it again appeared that the defendant was a

tenant who had covenanted to pay all outgoings, and the landlord had been ordered, under the Public Health Act, 1875, to abate a nuisance constituted by a defective drain, by renewal, replacement, reconstruction and construction of an inspection chamber. The old drain was described as "past repair." But the tenancy agreement also contained a covenant by the landlord to do outside repairs. The drain was an outside one. The conflict was decided in the tenant's favour. It was held that the work, though extensive, fell within the *Lurcott* v. *Wakely and Wheeler*, *supra*, definition of "repair," and that the tenant's covenant must be read as if it contained the words "except such as are by this lease imposed upon the landlord."

Lastly, in *Henman* v. *Berliner* [1918] 2 K.B. 236, a landlord sued her tenant for the expenses paid by the plaintiff to the local authority under the Public Health Act, they having recovered them from her. The tenant had covenanted to pay outgoings; but the answer to that was that the plaintiff had promised and had broken her promise to put the drains in order. On these facts, it was held that the tenant's contentions prevailed, his breach being a consequence of the breach by the defendant of a prior obligation and his covenant not applying to the drains till they were put in order.

Our County Court Letter.

CONTRACTS FOR ADVERTISEMENTS.

In *Hancock* v. *Goddard and Peak*, recently heard at Bishop's Stortford County Court, the claim was for £10 8s., as the first year's instalment on an advertisement. The plaintiff's case was that he traded as the County Advertising Company, and had secured a tenancy for three years at £4 a year of a site at the corner of Ely Road, Littleport. Having obtained contracts from two other firms, who had agreed to exhibit advertisements on the site, the plaintiff obtained a contract for the remaining space from the defendants. Permission to erect a light on the sign was sought, through the Littleport Gas Company, from the county council, but was not granted. The plaintiff therefore found an alternative site in Granby Road, in accordance with a proviso in the contract, and the two other firms were agreeable to the change. The second site was in fact better than the first, but the defendants objected to the alteration. Their case was that a traffic census, over seven hours, showed that 1,140 cars passed Ely Road, whereas the number in Granby Road was 268 only. His Honour Judge Farrant was not satisfied of the existence of a contract to pay £10 8s., and he therefore entered a non-suit, with costs to the defendants. Compare a case, noted under the above title in the "County Court Letter" in our issue of the 5th September, 1936 (80 Sol. J. 700).

MEAT PIES AND FOOD POISONING.

In the recent case of *Ashcroft* v. *Webster*, at Liverpool County Court, the plaintiff's case was that his wife had bought three 2d. meat pies at the defendant's shop on the 21st May. The plaintiff ate a pie about 11 p.m., but suffered from pains in the night, and had no breakfast next day. He was away from work for three weeks, the medical evidence being that his condition was consistent with food poisoning. The defence was that the pies were obtained from the makers, and the number bought at one time never exceeded two dozen. They were delivered in paper wrappers, by motor van, at about 5 p.m. Very few were unsold at the end of a day, and any left were sold first on the following day. The supplies had been obtained from the same makers for eighteen months, and there had been no other complaint, either before or since, as the meat pies were still obtained from the same makers. His Honour Judge Procter held that the pies had not been fit for human consumption, and had made the plaintiff ill. Judgment was accordingly given in his favour for £10 17s. 6d. special damage and £20 general damages for pain and suffering, with costs. Compare "Tinned Salmon and Food Poisoning," in the "County Court Letter" in our issue of the 8th February, 1936 (80 Sol. J. 105).

THE CONTRACTS OF DOMESTIC SERVANTS.

In two recent cases at West London County Court (*Fawl* v. *Davison*: *Fawl* v. *The Same*) the claims were for three weeks wages, as the balance of a month's wages in lieu of notice. The plaintiffs had been cook and house parlourmaid at the house of the defendant, and their case was that they had come from Ireland, but, after ten days in the defendant's service, they were told they would have to leave, as they were too inexperienced. Being turned into the street at 10 p.m., they had no home to go to, and were sheltered by a religious society. The defendant's case was that she engaged the girls on their representing that one was a good cook, and the other (although less experienced) was used to waiting at table. Nevertheless she dropped dishes and spilled the soup over diners. Both were given a week's notice, but, at the end of that time, the cook asked for a month's wages. On this being refused, the plaintiffs called a policeman to settle the dispute, but the defendant explained to him that none existed. The defendant offered the plaintiffs a week's wages and gave them 2s. 6d. for a taxi fare, as they said they had somewhere to go for the night. His Honour Judge Hargreaves held that the evidence was insufficient to justify dismissal. Judgment was given for the cook for £7 16s. 6d. and for the house parlourmaid for £7 2s. 4d. with costs. Compare a note under the above title in the "County Court Letter" in our issue of the 24th October, 1936 (80 Sol. J. 850).

Land and Estate Topics.

By J. A. MORAN.

The market for real estate continues to be satisfactory. True, during some weeks last month the supply on offer at the London Auction Mart fell off a bit, but this must not be accepted as an indication that all is not well. It is only too apparent that there are many buyers about; and that, no doubt, inspires an impression that values are likely to rise in the near future, the consequence being that those who want to realise are inclined to hold over a while longer. Freehold ground rents and eligible shop sites continue to be in great demand, and there is every indication that speculators are beginning to see in the purchase and improvement of old, detached rural cottages a quick and profitable return on the amount of capital invested. But on no account should this venture be entertained without the assistance of a responsible expert. Some local authorities are very keen on demolishing old cottages, and enquiries on this point before completion of the purchase should be very strict and conclusive.

The Governors of the College of Estate Management have awarded a Travelling Scholarship in Agriculture to Mr. Claude Culpin, University Demonstrator in Agricultural Engineering at the School of Agriculture, Cambridge University. Mr. Culpin will visit Germany and America to investigate the application of power and machinery to agriculture.

In the course of his admirable and very instructive Presidential Address to the members of the Chartered Surveyors' Institution, Mr. J. M. Theobald offered sound advice to those who think of taking up quantity surveying as a profession. The work at the beginning, they are told, is apt to become very monotonous, and, later on, it will be found that there is no such thing as normality in the profession. In times of economical depression, the building trade is one of the first to suffer, and because of his dependence on the industry for his livelihood the quantity surveyor is more liable to financial ups and downs than is any other branch of the Institution membership.

Mr. Theobald's reputation as one of our leading quantity surveyors entitles him to great respect, and it is encouraging to have his opinion that although he can look back over nearly half a century he has never known the profession so full of work as it is at the present time.

The Address forms a very valuable addition to technical literature, and should prove an attractive addition to the library of the Institution.

The difficulty in receiving television or broadcasting programmes in a block of flats, appears to have been overcome. A common aerial system on the roof, eighty-six feet above street level, in conjunction with amplifiers, efficiently serves seventy-three Mayfair flats in the building. In each flat there is a wall-plate containing three sockets—one for television reception, and the other two are the ordinary aerial and earth points for radio reception. Sets do not interfere with one another, and are immune from most of the troublesome noises that generally spoil reception in London flats.

Are property owners about to make the acquaintance of an Inspector of Repairs? It is well to remember that many of the houses built in a hurry since the war, and sold at a quick profit, are not receiving a fair amount of attention. Property, to endure, must be looked after; and if the present indifference continues to exist, I shall not be surprised if there is a movement towards municipal control of owner-occupied houses, with an Inspector of Repairs serving notice on the owner to mend his roof or paint his hall door!

The inaugural meeting of the new Valuers, Surveyors and Estate Agents' Association of Great Britain, was held at the Savoy Hotel. There was an attendance of over 250. Mr. P. Michael Faraday, the president, made a lucid, explanatory speech. The main object of the new association, he said, was to be freed from the unreasonable obligations of the much discussed "Code of Conduct." All they expected of a member was that he should not conduct himself in his professional capacity or otherwise in such a manner as likely to prejudice his professional reputation or the status of the association. After an interchange of views it was agreed to frame rules and bye-laws, to be submitted at a further meeting.

The owners of the Goring Park Estate, Goring-on-Sea, sought an injunction to restrain a young married couple from annoying their neighbours by making a garden display of their washing activities, on the Sabbath. Judge Austin Jones granted the injunction so far as Sundays, and after 2 p.m. on Wednesdays, Thursdays, Fridays and Saturdays were concerned. Which means that the newly-weds may entertain their neighbours the whole of Mondays and Tuesdays with a display of sheets, blankets and table cloths that will make light of infants' habiliments. Seems to me, the cure is just as bad as the disease.

Obituary.

Mr. A. H. JACKSON.

Mr. Arthur Howland Jackson, retired solicitor, of Ringwood, Hants, died on Monday, 30th November, at the age of ninety-one. Mr. Jackson, who was admitted a solicitor in 1867, was for many years senior partner in the firm of Messrs. Jackson & Sons, of Ringwood. He also practised at Fordingbridge.

Mr. I. H. MAWSON.

Mr. Isaac Horace Mawson, solicitor, senior partner in the firm of Messrs. Clutterbuck, Trevenen & Mawson, of Carlisle, died on Thursday, 26th November, at the age of seventy-three. Mr. Mawson, who was admitted a solicitor in 1888, was appointed Conservative agent for North Cumberland in 1894. He was a former secretary of the Cumberland Rugby Union.

Mr. J. R. PARSONS.

Mr. John Robert Parsons, solicitor, of Blyth, died on Friday, 27th November. Mr. Parsons served his articles with Messrs. Guthrie & Guthrie, solicitors, of Blyth, and was admitted a solicitor in 1904. He was for many years with Messrs. Brown & Holliday, solicitors, of North Shields. In 1920 he returned to Blyth, and established his own practice.

Mr. A. E. C. ROBERTS.

Mr. Arthur Edward Campbell Roberts, solicitor, of Shrewsbury, died in a nursing home at Shrewsbury on Friday, 27th November, at the age of fifty-nine. Mr. Roberts was admitted a solicitor in 1899.

Mr. S. WALLHEAD.

Mr. Sidney Wallhead, solicitor, senior partner in the firm of Messrs. H. B. White, Sons & Wallhead, of Warrington, died on Saturday, 21st November, at the age of sixty-one. He was admitted a solicitor in 1897, and joined his father, Mr. Spencer Wallhead, in the firm of Messrs. Spencer Wallhead & Son. In 1919 that firm amalgamated with Messrs. H. B. White & Sons, and became Messrs. H. B. White, Sons & Wallhead. Mr. G. F. F. White died last year, and Mr. Wallhead became senior partner.

Reviews.

Complete Practical Income Tax. By A. G. McBain, Chartered Accountant. Eighth Edition, 1936. Demy 8vo. pp. xxiv and 316. London: Gee & Co. (Publishers), Ltd. 7s. 6d. net.

This is the eighth edition of Mr. McBain's book since it was first published in 1925. It is a volume which is widely used by examination students, and it can also be recommended to those income tax practitioners who do not require one of the larger taxation manuals containing detailed references to tax cases in the courts. There are a number of useful examples, and the chapters on Annual Charges, Particular Concerns, Dominion Income Tax Relief and Residence are particularly good. The present edition covers the law and practice of income tax down to and inclusive of the provisions of the Finance Act, 1936.

Books Received.

Tax Cases. Vol. XX. Part III. 1936. London: His Majesty's Stationery Office. 1s. net.

Meetings: The Chairman's Pilot and Chart. By Morton F. Parish. Second Edition, 1936. Crown 8vo. pp. xvi and (with Index) 164. London: Sweet & Maxwell, Ltd. 6s. net.

Index to the Statutory Rules and Orders in force in Northern Ireland on 31st December, 1935. Second Edition, 1936. Royal 8vo. pp. viii and 386. Belfast: His Majesty's Stationery Office. £1 1s. net.

The Lawyer's Companion and Diary, 1937. Ninety-first Annual Issue. Edited by Morton F. Parish, Member of The Law Society. Demy 8vo. London: Stevens & Sons, Ltd.; Shaw & Sons, Ltd. Prices from 5s. to 14s. 6d.

The Law of Libel and Slander. Second Edition, 1936. By W. Valentine Ball, O.B.E., M.A., a Master of the Supreme Court, and Patrick Browne, M.A., of the Inner Temple, Barrister-at-Law. Demy 8vo. pp. xxxv and (with Index) 229. London: Stevens & Sons, Ltd. 10s. net.

The Penal Law of British India. By Sir Hari Singh Gour, M.A., D.Litt., D.C.L., LL.D., of the Inner Temple, Knight, Barrister-at-Law. Fifth Edition, 1936. Royal 8vo. pp. cxx and (with Index) 1,876. Nagpur: The Central Book Depot. London: Stevens & Sons, Ltd. £1 10s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Solicitors' Accounts.

Q. 3386. A solicitor receives in one cheque payable to himself (1) an amount due to a client; (2) disbursements made by the solicitor on behalf of the client; (3) the solicitor's costs. The same day that the cheque is received, a cheque for the amount due to the client is posted. It is a very great convenience if the cheque received can be paid by the solicitor directly into his own account, as this saves the trouble, bookkeeping and bank transfer from clients' account to ordinary account for the costs and disbursements. It is suggested that the solicitor is quite in order as soon as he draws his own cheque payable to the client to consider that the whole of the cheque received by him can properly be paid into his own account. It is obvious, of course, that the cheque drawn by the solicitor in favour of his client has not been cleared, but similarly the cheque received by the solicitor has not been paid into his own account until he has drawn the cheque payable to the client. Is it considered that there could possibly be any objection to this method of dealing with a cheque received under such circumstances?

A. The payment of a cheque, including an amount due to a client, into the solicitor's own account is a breach of the Solicitors' Accounts Rules, 1935. The proper way is to pay the cheque into the client's account, and then draw a cheque on that account for the money not due to any client. If the cheque, after being paid in, is dishonoured, the result will be that the other clients' money will be used in payment of the cheque drawn on the account. The amount withdrawn must therefore be repaid (into the account) by the solicitor at once. The difficulty can be met by keeping the clients' and solicitor's accounts at the same bank, and, with the bank's concurrence, splitting the cheque paid in, in accordance with the proviso to r. 2. The bank, by arrangement, can credit part of the cheque to the clients' account, and the remainder to the solicitor's own account.

Infant—*Damnosa hereditas*—Course of Action to be adopted by the Personal Representatives and Trustees of the Will and Notional Settlement.

Q. 3387. A, who died recently, by his will appointed B and C executors and trustees thereof and *inter alia* devised to B and C a dwellinghouse in trust for X (an infant of about eight years old) on his attaining twenty-one years. The gift in trust for the infant is a separate gift and no question of election arises. B and C duly proved the will and, presumably, *ipso facto* accepted the trusts thereof, including the trust in favour of the infant X. The dwellinghouse held in trust for X, is derelict, is not occupied, and is subject to a mortgage and, in fact, is a "*damnosa hereditas*." Clearly, the acceptance of the gift to the infant carries with it the responsibility for payment ultimately of the mortgage principal with the interest until paid and for the performance of the other covenants contained in the mortgage—Locke Kings Acts as re-enacted by the L.P. Act, 1925. I understand that no assent has been made by B and C (the executors of A's will) to the devise to themselves in trust for X, and the question has arisen as to the rejection of the devise on behalf of the infant as it is clearly to the infant's interest for the gift not to be accepted with its attendant responsibilities. B and C having proved A's will are, apparently, fixed with responsibility for the carrying out of the trusts thereof, and, assuming the gift to the infant were an acceptable one, they would in the ordinary course of things execute a vesting deed in favour of themselves as trustees for the infant (the land being "settled land" and the trustees in the circumstances having the powers of a tenant for life). Whilst on the one hand B and C, as proving executors of A's will, have the duty of carrying out the trusts thereof, they on the other hand as trustees for the infant would be clearly acting contrary to the infant's interest in accepting the devise of the dwellinghouse, and the question arises as to what should be done in the circumstances:—

(1) Can B and C on behalf of the infant exercise their discretion in rejecting the gift and, if so, what safeguards (if any) ought they to obtain to justify their taking this course?

(2) Clearly the fee simple in the dwellinghouse is at present vested in B and C as personal representatives of A's will and, apparently, if the gift can be rejected on behalf of the infant the responsibility for payment of the mortgage principal and interest and the mortgage covenants will remain the liability of A's estate and fall to be paid out of the residue of such estate which would operate to the detriment of the residuary legatees under A's will.

A. This is a difficult matter upon which to advise. It appears to us that it would certainly be inadvisable for the personal representatives to execute a vesting assent in their own favour as trustees. We are disposed to suggest that the best thing to do is to stand by until the mortgagee takes steps to realise his security (? by sale). As the property is not of sufficient value to meet the mortgage debt, there will then be nothing for the infant, and it will not be necessary to consider the question of disclaimer on his behalf. The objection to this course of action is the burden which will be thrown upon the residuary estate. We do not see, however, how it is possible to protect that residue from its liability to meet the debt in so far as the actual security is inadequate. If the mortgagee is not prepared to move in the matter the personal representatives should consider a sale.

Annuity—Duration of.

Q. 3388. G.J. (who died in March, 1934) by his will directed his trustees to pay the annual income arising from his residuary personal estate to his son-in-law, N.W.A., for a period of five years from the date of the testator's death, and afterwards, to pay the said annual income to the testator's grandson, N.A., during his life. N.A. had attained the age of twenty-one years several years before the date of the testator's will. N.W.A. has just died, having received the income from the testator's personal estate for the past two years. Who will now be entitled to the income from the testator's personal estate for the next three years—N.A. or the executors of N.W.A.? Kindly quote authorities, if any.

A. The gift of an annual sum for a term or *per autre vie* is a gift to the beneficiary and his personal representatives during the term or the life of *cestui que vie* (*Re* Ord. 12, C.D. 22, 25). There seems no reason to suppose that the fact that the annual sum may fluctuate would make any difference. On that basis during the next three years the income will go to the personal representatives of N.W.A.

To-day and Yesterday.

LEGAL CALENDAR.

30 NOVEMBER.—On the 30th November, 1824, Henry Fauntleroy, the banker, was hanged for forgery. He had disposed of over £170,000 by means of forged powers of attorney. All round the Old Bailey, in Ludgate Hill, Newgate Street and Smithfield, 100,000 people had assembled. At 7 o'clock in the morning the City marshals on horseback took their places by the scaffold. At 8, the prisoner, composed in his demeanour, was led out by the sheriffs, and the moment he appeared the whole crowd took off their hats. In little more than two minutes after he ascended the scaffold the trap-door fell.

1 DECEMBER.—On the 1st December, 1849, Charles Corby, a boy of twenty, was tried before Mr. Baron Alderson for the attempted murder of his sweetheart, Mary Noble. She had left him after a quarrel and he had tried to make it up. He looked so distressed that she leaned forward to kiss him and as she did so he cut her throat. "I could not help it," he said, "I do sincerely love you. If I cannot marry you, no one else shall." The jury, in finding him guilty, recommended him to mercy. The judge told him that though sentence of death must be recorded he would do what he could for him.

2 DECEMBER.—On the 2nd December, 1780, Lord Loughborough tried a case in the Common Pleas arising out of the havoc of the Gordon Riots. Mr. Wilmot, J.P., sued the inhabitants of Bethnal Green in respect of the destruction of his house there by the rioters and the damage done to his garden. The jury took half an hour to find him a verdict for £625 towards the repair of the house, £700 for the furniture destroyed, and £30 for the damage done to his garden.

3 DECEMBER.—William Cecil, Earl of Salisbury, has a place in legal history in that for four months he was a Commissioner of the Great Seal under Cromwell. Clarendon contemptuously dismisses him as "a man of no words except in hunting and hawking. In matters of state and council, he always concurred in what was proposed for the King and cancelled and repaired all those transgressions by concurring in all that was proposed against him as soon as such propositions were made." This weathervane of a man died on the 3rd December, 1668.

4 DECEMBER.—On the 4th December, 1837, William Marshall was tried at York for the murder of his two young children. He was a respectable man and had formerly been very cheerful, but for three months past he had been dejected, brooding and silent. He had been a good craftsman, but since the change in him, he spoilt all the work he tried to do unless his wife helped him. At his trial he refused to plead. The jury acquitted him on the ground of insanity and he was ordered to be detained during the Queen's pleasure.

5 DECEMBER.—When the hearing of the *Amalgamated Properties of Rhodesia* (1913) *Ltd.* v. *The Globe and Phœnix Goldmining Co.*, before Eve, J., came to an end on the 5th December, 1916, it had occupied 144 days. It was brought to recover the sum of £400,000, and it was estimated that it had cost £150,000 and that 50,000 questions had been put and answered. The speech of Mr. Upjohn, K.C., for the successful defendants lasted for forty-five days, the longest ever delivered in an English Court, and was described by the learned judge as "remarkable and unique." The trial was also marked by bitter recriminations between the counsel engaged.

6 DECEMBER.—Sir Charles Cæsar, Master of the Rolls, died of the smallpox on the 6th December, 1642, after holding office for three years.

THE WEEK'S PERSONALITY.

In the early seventeenth century, the Cæsars flourished in the legal world. Sir Julius, whose persistence had already secured him judgeships in the Admiralty and in the Court of Requests, succeeded to the office of Master of the Rolls in 1614, and before he had been there a year, he had made a Master in Chancery of his young son Charles, then twenty-five years old. Sir Julius remained Master of the Rolls till his decease in 1636, when Sir Dudley Digges succeeded him, but death having once more created a vacancy, Charles seized the opportunity to sit in his father's place and outbid all other candidates, securing his appointment by a payment of £10,000, a promise of £5,000, and a loan towards the expenses of the King's Scottish expedition of £2,000. After paying so high a price, fate decreed that he should reap little gain from his bargain, for in 1642 he died of the smallpox at the Rolls House in Chancery Lane, four days after one of his daughters and five days before his eldest son. His epitaph described him as "an equal distributor of unsuspected justice, blind to the person, quick-sighted to his cause, just without corruption, merciful without affectation, a pious favourite of his God, a loyal subject to his Prince." But a less biased testimony calls him "a very ass."

A LONG CLIMB.

Judge John Walsh, a Justice of the Supreme Court of New York, who died recently, was a labourer before he was admitted to the Bar in 1905. His example should be a stimulant to the high courage of a student admitted not long ago to the Middle Temple. He is forty-six years old and he works as a bus conductor, devoting his spare time to attending law lectures. Sheer perseverance has carried him far towards the Bar. Curiously enough, it is to the supposedly rigidly aristocratic seventeenth and eighteenth centuries that we may turn for the most spectacular rises in the legal profession. Lord Chancellor King was the son of an Exeter grocer and began his working life behind the counter. Sir Thomas Clarke, Master of the Rolls from 1754 to 1764, was born in the slums of St. Giles. Lord Tenterden, C.J., was the son of a barber. Sir Edmund Saunders, who became Chief Justice in 1683, was, we are told, "at first no better than a poor beggar boy," who only learnt to read by the kindness of the Clement's Inn attornies struck with his "extraordinary observance and diligence."

JUDGES IN GAOL.

No doubt all judicial persons will have noticed with sympathetic approval a recent American ruling that a judge in California, sentenced to a term of imprisonment for participating in a conspiracy to obstruct justice, was still entitled to receive his salary of £2,000 a year, inasmuch as he had not been removed from office in any constitutional manner. This little news item added piquancy to a recent headline in one of our own daily papers: "A Judge Will Tell of his Prison Days." The judge in question was Bennett, J., and the words indicated no dramatic story of criminal tendencies. They merely announced that he would attend a dinner of his fellow prisoners of war, for during 1918 the learned judge spent six months in captivity at Graudenz. Of course, it is not without precedent for judicial personages to know the inside of a prison, and, in the upheavals of the seventeenth century, a good many found themselves under lock and key. Berkeley, J., was even arrested on the Bench, "to the great terror of his brethren and of all his profession," for the Parliamentary rebels were more high-handed than the King.

"KNOCK, KNOCK."

I hesitate to insert in so grave a journal, the latest absurdity which is going the rounds of the Temple, but I will venture it. The scene is the Divorce Court. The Registrar rises and calls on the case of "*Knock* v. *Knock*." The learned judge: "Who's there?" Learned counsel: "May." The learned judge: "May who?" Learned counsel: "May it please your lordship."

Notes of Cases.

Judicial Committee of the Privy Council.

Permanent Trustee Co. of New South Wales Ltd. *v.* **Bridgewater, and Cross-Appeal (Consolidated).**

Lord Atkin, Lord Russell of Killowen, Lord Macmillan and Sir Lyman Poore Duff. 16th October, 1936.

New South Wales—Sale of Interests under Will—Vendor previously indebted to Purchaser—Undervalue—Transaction not Fair and Reasonable—Sale of Reversions Act, 1867 (31 & 32 Vict., c. 4), s. 1—Conveyancing Act, New South Wales (No. 6 of 1919), s. 30.

Appeals by the plaintiffs and the defendant from a judgment of the Chief Judge in Equity (Sir John Musgrave Harvey, C.J.) of the Supreme Court of New South Wales, given on the 31st January, 1935. (This report deals only with the defendant company's appeal.)

The plaintiffs were the executors of one, Murray, a moneylender. The defendant, one Bridgewater, was an Englishman, who, being in Australia in 1928 at the age of twenty-one, borrowed certain sums from Murray, amounting to over £2,000, which were charged on Bridgewater's interests under two wills. Under his grandfather's will one-eighth of the residuary estate was held as to one-half in trust for Bridgewater's father for life, and after the father's death in trust for the father's issue as he should by will appoint, and as to the other half on trust that the trustees should apply the income during Bridgewater's minority towards his advancement and education, and, subject to that, that they should hold the half in trust absolutely for Bridgewater on his attaining the age of twenty-five years, but "in the event of" . . . (Bridgewater's) . . . "dying before he shall attain the age of twenty-five years or after that age without leaving issue capable of taking a vested interest in such one-half share then upon trust for . . . the children of . . ." the father ". . ." Under the father's will, Bridgewater in the events which happened took three-fifths of his father's residue (subject to his mother's life interest in one-fourth of the entirety) contingently on his attaining the age of twenty-seven. In 1928 Bridgewater returned to England, and, various questions having arisen, reached a compromise with his mother whereby his share in the capital of the father's estate was agreed to be £1,450. In August, 1928, Bridgewater, having returned to Australia, asked Murray for another loan. Murray had heard from London that counsel had advised that it was doubtful whether, under the grandfather's will, the interest vested in Bridgewater indefeasibly at twenty-five. Counsel in Sydney advised Murray that Bridgewater's interest in the capital under the grandfather's will would pass from him under the gift over in the event of his dying at any time without leaving issue. Murray then offered to buy Bridgewater's interests under the grandfather's will and his interest up to £1,450 in his father's will, for £125. Bridgewater accepted the offer, and a solicitor, one, Taylor, acted on Bridgewater's behalf. An action having been brought to set aside the sale, the Chief Judge in Equity made an order to that effect and the defendants now appealed.

Lord Russell of Killowen, delivering the judgment of the Board, said that obviously each of the two wills gave rise to questions. Under the grandfather's will Bridgewater's contingent interest was expressed to be subject to a defeasance, even after he had attained twenty-five, in favour of a class which was not ascertainable within perpetuity limits, whom failing, then in favour of a class ascertainable within legal limits. Some five or seven counsel in different hemispheres had been consulted on the matter at different times, which justified the statement that the true construction of the disposition was not free from doubt. Bridgewater was, however, in any event under the grandfather's will entitled to a substantial sum (then stated to be £1,000) in respect of income on attaining twenty-five, and, under the father's will, to £1,450 on attaining twenty-seven. His indebtedness to Murray was some £2,200. While Bridgewater's solicitor acted honestly and told Bridgewater that he considered the price offered insufficient, it appeared to their lordships that he made no attempt to advise Bridgewater, but simply accepted as irrevocable his decision to sell. The Chief Judge in Equity had held the sale was at an undervalue and an unfair dealing with an expectant heir. Section 30 of the Conveyancing Act, New South Wales, 1919, might be treated as identical with s. 1 of the Sale of Reversions Act, 1867. The remarks of Lord Selborne with reference to the English Act in *Earl of Aylesford* v. *Morris* (1873), L.R. 8 Ch. App. 484, at p. 490, were applicable to the New South Wales enactment. The language of Lord Hatherley in *O'Rorke* v. *Bolingbroke* (1877), 2 App. Cas. 814, at pp. 823 and 829, might also be quoted. Their lordships were satisfied on the evidence that the price given was substantially below the true value of the interests sold, even making allowance for all uncertainty of construction of the grandfather's will. Section 30 of the Act of 1919 afforded no defence. The circumstances in which the transaction was carried out presented many disquieting features. The vendor was a man of twenty-two in urgent need of cash. The purchaser of the interests already had a powerful grip on them as security for his debt. The matter was carried through without any real advice by Taylor. A transaction carried out in those circumstances did not appear to their lordships to be a purchase made in good faith and without unfair dealing. The circumstances were such that it was incumbent on the defendants to establish that the transaction was fair, just and reasonable. They had failed to do that, and the appeal must be dismissed.

Counsel: *F. R. Evershed*, K.C., and *Wilfrid Barton*, for the appellants; *H. H. Mason*, K.C., and *Kenelm Preedy*, for the respondent.

Solicitors: *Light & Fulton*; *Waterhouse & Co.*

[Reported by R. C. Calburn, Esq., Barrister-at-Law.]

Court of Appeal.

Swain *v.* **West (Butchers) Ltd.**

Greer and Greene, L.JJ., and MacKinnon, J. 22nd October, 1936.

Master and Servant—Manager of Company—Agreement to "Promote the Interests of the Company"—Involved with Managing Director in Misconduct—Request from Chairman to Give Proof of Managing Director's Misconduct—Undertaking that if he did so he would Not be Dismissed—Dismissal after Supplying Information—Whether Agreement Not to Dismiss Binding.

Appeal from a decision of Finlay, J.

The plaintiff was the general manager of the defendant company. Under his contract of employment for a term of five years he agreed to "devote all his time to the business of the company and do all in his power to promote, extend and develop the interests of the company." During the term of his employment he was, together with the managing director, involved in the commission of certain wrongful acts contrary to the company's interests. The matter having come to the knowledge of the chairman of the board, he had a conversation with the plaintiff in the course of which, according to the plaintiff's evidence, he entered into an oral agreement with him that if he supplied conclusive proof of the managing director's misconduct, he would not be dismissed. Having obtained the information required, he made a report. He was dismissed nevertheless, and brought this action for wrongful dismissal. Finlay, J., dismissed the action, holding that in giving the information

he was merely answering a lawful question, and that, therefore, there was no consideration for the alleged agreement, and the company was not debarred from relying on the information received.

GREER, L.J., dismissing the plaintiff's appeal, said that the decision depended on the principle that it was not good consideration for a person to promise the performance of something which it was already his legal duty to perform. Here the plaintiff, by reason of the clause in his contract was under a duty to report to the board acts which were not in the interests of the company. In sending in the report he was doing what was his obvious duty as manager. It was not now being decided that in every case where the relation of master and servant existed it was the servant's duty to disclose the discrepancies of his fellow servants. *Bell* v. *Lever Brothers Ltd.* [1932] A.C. 161, had nothing to do with this case.

GREENE, L.J., and MACKINNON, J., agreed.

COUNSEL, *Schiller*, K.C., and *Vos*; *Sir Patrick Hastings*, K.C., and *G. Roberts*.

SOLICITORS: *J. N. Nabarro & Sons*; *Wild, Collins & Crosse*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re a Debtor (No. 231 of 1936).

Slesser, Romer and Greene, L.JJ.
13th November, 1936.

BANKRUPTCY—PETITION BY MONEYLENDERS—DEBTOR'S TENDER OF PRINCIPAL, INTEREST AT 50 PER CENT. AND COSTS—NO TENDER OF POSTPONED INTEREST—WHETHER SUFFICIENT CAUSE FOR DISMISSAL OF PETITION—MONEYLENDERS ACT, 1927 (17 & 18 Geo. 5, c. 21), s. 9 (1).

Appeal from a decision of Mr. Registrar Parton.

On the 22nd October, 1935, the debtor borrowed from the petitioning creditors, who were licensed moneylenders, a sum of £250, agreeing to pay £32 11s. interest, and giving them a cheque for the total of principal and interest, dated the 30th November, 1935, which in the event was not paid. The transaction was subsequently carried over to January, 1936. On the 7th January, 1936, the debtor borrowed a further £300, agreeing to pay £350 on the 2nd April, 1936. In February, 1936, the debtor having failed to discharge his obligations under the first transaction, the petitioning creditors sued in respect of it. The defence was that the interest was excessive. On the 4th March, judgment was given for £180, and the debtor obtained leave to defend as to the balance. He did not pay the amount of the judgment. A bankruptcy notice was served and a petition presented. The debt as stated in the petition, £542 13s. 10d., being £237 18s. 3d., balance of £250 advanced on the 22nd October, on the debtor's promissory note, with £1 17s. 3d. interest at 5 per cent. on that sum, and £300 advanced on the 7th January, on his promissory note, with £2 18s. 4d. interest at 5 per cent. on that sum. The petition continued: "We also have a claim for interest on the said two promissory notes which is postponed interest under s. 9 (1) of the Moneylenders Act, 1927, for the sum of £129 6s. 2d., being as to £89 13s. 6d. due in respect of the first promissory note and as to £39 12s. 8d. due in respect of the second promissory note, after the deduction of the interest at 5 per cent. per annum." The debtor tendered to the petitioning creditors, out of money provided by another person, the amount of the principal together with 5 per cent. interest and costs. They refused the tender and the learned registrar made a receiving order.

SLESSER, L.J., dismissing the debtor's appeal, said that the registrar, in accordance with s. 5 (3) of the Bankruptcy Act, 1914, had considered whether for sufficient cause he should dismiss the petition. In coming to the conclusion that he should not, he had had regard to the fact that there was a sum due for interest besides the principal and the 5 per cent. interest. It could not be said that s. 9 (1) of the Moneylenders Act was such that all that was due had been tendered and that, therefore, there was sufficient cause for dismissing the petition. The section still preserved to the moneylender, after all the debts proved in the estate had been paid in full, the right to receive in bankruptcy proceedings any higher rate of interest than 5 per cent. to which he might be entitled. That section relating to the presentation of a bankruptcy petition was dealing with the provision in s. 4 (1) of the Bankruptcy Act, 1914, which provided that a creditor should not be entitled to present a bankruptcy petition unless the debt owing to him amounted to £50. In computing that £50, the effect of s. 9 (1) would be that that sum could not be arrived at by utilising by way of interest more than 5 per cent. But once the petition was before the court, the position was just the same under s. 5 as it would have been apart from the Moneylenders Act. The registrar was entitled to come to the conclusion that there was no sufficient cause for dismissal of the petition, because there was a sum admittedly owing for postponed interest over and above the sum stated. That sum in the event of the debts proved having been paid in full, the petitioning creditors would have been entitled to receive. The mere fact that they could not include it in the *quantum* which would enable them to bring a petition did not prevent its being a debt recoverable in the bankruptcy proceedings, so far as it was possible to recover it under s. 9. The question whether, if the whole sum had been tendered, the registrar could not have made the receiving order did not arise. The authorities seemed to indicate that even so there was no necessary obligation on him to dismiss the petition.

ROMER and GREENE, L.JJ., agreed.

COUNSEL: *C. N. Davis*; *Wallington*, K.C., and *C. Salmon*.

SOLICITORS: *Alec Woolf & Co.*; *Woolfe & Woolfe*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Lyons *v.* Collins (Inspector of Taxes).

Slesser, Romer and Greene, L.JJ.
24th, 25th and 26th November, 1936.

REVENUE—INCOME TAX—ANNUAL VALUE OF PREMISES—DISPUTE—VALUATION BY "PERSON OF SKILL"—EXTENT TO WHICH COMMISSIONERS BOUND—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), s. 138, Sched. A, Rules.

Appeal from a decision of Lawrence, J. (80 SOL. J. 737).

One Lyons, who before 1928 had leased certain premises to a company called Alexandre Limited, for £1,250 a year, demised them on the 1st February, 1928, to a company called Swears & Wells Limited for thirty years, at £2,000 a year. The lessees, who retained the name of Alexandre Limited on the premises, sub-let a part at £750 a year, shutting it off, with the landlord's permission, by a partition. Previously, the net assessment had been £1,107, but by reason of the alterations it became necessary to re-ascertain the annual value under Sched. A, No. 7, r. 8. In August, 1931, the premises were assessed for the years 1927–31 at £2,500, and for 1931–2 at £2,000, and a dispute as to the annual value having arisen, Lyons, under s. 138 of the Income Tax Act, 1918, required the Commissioners to direct him to cause a valuation to be made by a person of skill. One Hollis, who duly valued the premises at £1,200, £1,400, £1,400, £1,400 and £1,330 respectively, for the five years ended the 5th April, 1932, deposed at an adjourned meeting of the Commissioners in October, 1931, that his valuation was made without regard to the rent of £2,000 for the premises payable to the landlord. At the same time, the landlord contended that that sum was not a rack rent, but included a payment in respect of his permission to use the name Alexandre Limited, and that the annual value should be determined in accordance with Hollis's valuation. The inspector of taxes contended that this valuation had proceeded on a wrong basis, the provisions of the Income Tax Act relating to annual value having been disregarded, and that the valuation was, therefore, not binding on the Commissioners.

The Commissioners held that the valuation was binding and reduced the assessments, but this decision having been reversed by the Court of Appeal, another valuation was made accordingly in February, 1935, by a person of skill named Mosley, whose valuation calculated in accordance with the rules to Sched. A was £1,290 for 1927–8 and £1,365 for each of the remaining years. At their next meeting the Commissioners did not question Mosley as to his valuation, but they decided that the £2,000 rent was a rack-rent and made an assessment of £2,000 for each year. Lawrence, J., held that they were bound to accept Mosley's valuation.

SLESSER, L.J., dismissing the Crown's appeal, said that once it was established that "a person of skill" had given a valuation which could not be impeached on the face of it as bad in law—a valid valuation—the words of s. 138 (1) of the Income Tax Act, 1918, were decisive that the annual value should be determined in accordance with that valuation. Such a determination of value was to be contrasted with the case where the Commissioners, either because they did not think it necessary or because they were not required effectively to cause a valuation to be made, had to determine the annual value to the best of their judgment (s. 138 (2)). In either case, either through the judgment of a person of skill or through their own judgment, the annual value was determined, and thereafter there remained the final determination of the Commissioners with regard to the assessment which they must deal with in accordance with s. 137 (4) (5). This view was fortified by the provisions consolidated in s. 138 from s. 81 of the Income Tax Act, 1842, as amended by s. 47 of the Act of 1853, which provided that: "upon such valuation being verified on the oath of the person making the same, the assessment shall be made according thereto"—a mandatory provision which would be otiose if the discretion contended for by the Crown was intended to continue. The only difference in the present section was that the verification on oath was now at the option of the Commissioners, and the requirement that the annual value should be determined in accordance with the valuation was not altered. Though it might be said that "in accordance with" might mean "in substantial accordance with" (see *Reg.* v. *County of London Justices*, 24 Q.B.D. 341, at p. 345), that pointed only to some trivial variation, and the substitution of entirely different figures for those given by the valuer and a corresponding assessment could not be said to be an annual value determined in accordance with his valuation. As to the question whether the Commissioners could question the person of skill about the principles on which he had proceeded, all they could require of him to be determined on oath was the verification of his valuation. When he had completed his valuation he was *functus officio*, and the most the Commissioners could do was to ask him to explain some ambiguity in his statement, remitting it to him for that purpose in appropriate cases. But apart from that when the valuation was on the face of it a good one and clear, the Commissioners must accept it and determine their final assessment accordingly.

ROMER and GREENE, L.JJ., agreed.

COUNSEL: *The Solicitor-General* (Sir Terence O'Connor, K.C.) and *R. Hills*; *Latter*, K.C., and *C. King*.

SOLICITORS: *Solicitor of Inland Revenue*; *Gisborne & Co.*, agents for *A. Kremer*, of Leeds.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

There were only three summonses for driving motor vehicles at speeds exceeding thirty miles an hour at the North London Police Court last Monday, says *The Times*. Mr. Basil Watson, K.C., the magistrate, said: I am very glad to see that there are only three cases of speed this afternoon. I am very grateful to those motorists in this district who are co-operating with me in my endeavour to make the district safe not only for pedestrians but also for motorists who are careful and considerate drivers." Some time ago the magistrate had threatened to impose the maximum penalties where there had been previous convictions in speed cases unless they decreased.

Appeals from County Courts.

Blee *v.* London & North Eastern Railway Co.

Slesser and Scott, L.JJ., and Eve, J. 19th and 20th October, 1936.

WORKMEN'S COMPENSATION—EMPLOYEE WHO HAD FINISHED ORDINARY DAY'S WORK—CALLED FOR EMERGENCY DUTY—INJURED IN STREET ACCIDENT WHILE RETURNING TO PLACE OF EMPLOYMENT—WHETHER ACCIDENT IN COURSE OF EMPLOYMENT.

Appeal from Clerkenwell County Court.

A railway ganger, having finished his ordinary day's work at 5.15 in the evening, returned home. In the ordinary course, he would have started work at 7.20 on the following morning, but at 10.30 at night he was called by messenger from the railway company for emergency duty. While going back to work, he was knocked down by a motor-car in the street, and sustained injuries from which he died. The learned county court judge awarded his widow £300 compensation.

SLESSER, L.J., allowing the employers' appeal, said that there was no evidence that the man died as a result of an accident arising out of his employment, as he was not performing a duty under his contract of service at the time the accident occurred (see *St. Helen's Colliery Co. Ltd.* v. *Hewitson* [1924] A.C. 59, at p. 95). There was evidence that when called to emergency work "every man was booked on at the time he left his home." That could not mean that a book was provided by the company in every man's home, but that when the time for his employment was booked on at its premises he was given credit in the computation of wages for the time when he left his home. The men got overtime pay. On emergency work they got a minimum of two hours. This man did not owe his employers any duty under his contract of service other than that he agreed that when he was wanted in an emergency he should report as soon as conveniently might be at their premises. How he got there was entirely his own affair. His duty started when he reached those premises. *Allen* v. *Siddons*, 25 B.W.C.C. 350 was different, because in the present case there was no evidence that the employers had any right to give the man any orders until he reached the place where his emergency services were required. The accident happening before he reached that place did not arise in the course of his employment.

SCOTT, L.J. and EVE, J., agreed.

COUNSEL: *Beney*; *W. Shakespeare*.

SOLICITORS: *I. Buchanan Pritchard*; *Pattinson & Brewer*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Mills; Marriott *v.* Mills.

Bennett, J. 1st December, 1936.

WILL—CONSTRUCTION—"ALL MY HOME AND PERSONAL BELONGINGS"—WHETHER RESIDUARY PERSONAL ESTATE INCLUDED.

A testatrix, by her will made in 1930, revoked all previous wills, appointed her daughter executrix and directed all her debts and funeral expenses to be paid. She continued: "I give and bequeath unto my daughter Florence Marriott all my home and personal belongings except the piano, and that is for my grandson John William Shephard and all insurances to go to my daughter Florence Marriott." When she died in 1935 she had £147 cash in the house, £679 16s. 3d. on deposit in a savings bank, £56 9s. 6d. payable under insurance policies and about £50 money on loan, besides household furniture. A question arose as to the meaning of "belongings"—whether the daughter was beneficially entitled to the residuary personal estate or only to the personal chattels and the benefit of the life insurance policies.

BENNETT, J., in giving judgment, said that it had been argued that the testatrix died intestate save as to the personal chattels, the piano and the insurances. But "belongings" was wide enough to cover the personal estate. It had the primary meaning of "property" (see *In re Bradfield* [1936] W.N. 423), and unless there were sufficient in this will to afford a context restricting its meaning it should be so interpreted. The words "home" and "personal" and the specific gift of "insurances" introduced doubt, but the court leant against intestacy and on the construction of this will the testatrix had disposed of all her residuary personal estate.

COUNSEL: *George Slade*; *Danckwerts*.

SOLICITORS: *Ridsdale & Son*, agents for *Day, Johnson & Boot*, of Nottingham: *Church, Adams, Tatham & Son*, agents for *Palmer & Paling*, of Nottingham.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Woodward and Another *v.* Wolfe.

Hilbery, J. 28th, 29th October and 6th November, 1936.

CONTRACT—COTTON FUTURES—SPECULATION—PAYMENT OF DIFFERENCES—GAMING TRANSACTION PLEADED—BROKERS THEMSELVES BOUND BY CONTRACTS OF PURCHASE—RIGHT TO SUE.

Action to recover £153 13s. 10d. in respect of transactions carried out by the plaintiffs as brokers for the defendant.

The plaintiffs were cotton merchants, members of the Liverpool Cotton Exchange, and had an office in Manchester entirely managed by one, Greenwood. Greenwood suggested to the defendant that he should gamble in cotton futures, informing him that he (Greenwood) would do all that was necessary on the defendant's behalf, if the defendant would authorise him to buy and sell on his (the defendant's) behalf. He informed the defendant that he would make good the loss if there should be one. It was a term of Greenwood's employment with the plaintiffs that he should guarantee the accounts of any customers he introduced, and Greenwood had in fact offered to pay the amount for which the plaintiffs were suing the defendant. The defendant having authorised Greenwood to speculate for him in the manner suggested, a series of transactions took place over a period of some months, every transaction being carried out in the same way, which was as follows: No member of the public can buy or sell cotton futures on the Liverpool market unless he is a member of the Liverpool Cotton Association. Every transaction must be carried out in accordance with the rules and usages of the association. The use of certain printed forms of contract was obligatory. On receipt of an order from their Manchester office to purchase cotton for future delivery on behalf of the defendant, the plaintiffs went into the market and made the purchase from another member of the association, entering into a contract in one of the forms of the association contracts, whereby they bound themselves as buyers of the cotton under the terms of that contract, at a price agreed between themselves and the sellers. They then, as they were bound by the rules to do, filled in another form under which they sold to the defendant the cotton just bought at the same price as they had paid the sellers. That contract contained in addition the words "with £ . . . brokerage to us." A duplicate of that sale note, in the form of a bought note from the defendant to the plaintiffs, was sent at the same time for the defendant's signature and return. In every case an account sales was in due course rendered, showing the difference, and the brokerage due. The last transaction between the plaintiff and the defendants having been completed, the account was closed, and showed as due from the defendant to the plaintiffs the amount claimed in the action.

HILBERY, J., said that it was contended for the defendant that, as contracts of purchase and sale had been made with the defendant by the plaintiffs directly as plaintiffs, and as there was an express understanding that there should be no question of deliveries on either side, but only an eventual payment of differences, the claim was in respect of gaming and wagering transactions, and therefore, unenforceable in law. The defendant had relied on *Ironmonger & Co.* v. *Dyne* (1928), 44 T.L.R. 49, but there foreign bankers, whose business it was to buy and sell foreign currency, were the contracting parties on one side. They did not appear to have acted in any way as brokers. They were principals in the transactions in the fullest sense of the word. In the present case the plaintiffs had in every transaction acted as brokers. They had made a genuine contract binding themselves in respect of exactly what the defendant was buying or selling. The fact that subsequently, in accordance with the association's rules, they sent the defendant a form of contract as between him and themselves as direct contractors, falsified the true position. It was noteworthy that that contract expressly added a charge for brokerage, which was wholly inconsistent with the plaintiffs' being in reality principals in a plain vendor and purchaser contract. That being so, the case was more nearly covered by *Weddle, Beck & Co.* v. *Hackett* [1929] 1 K.B. 321. It was true that it was to be only a matter of differences, but the plaintiffs, as brokers, had made contracts in the market, in order to enable the defendant to give effect to his orders and gamble. There must be judgment in their favour.

COUNSEL: *R. Segar* (*R. Etherton* with him), for the plaintiffs: *D. G. A. Lowe*, for the defendant.

SOLICITORS: *W. Pingree Ellen*, agent for *Peace & Darlington*, Liverpool: *Lewis Shane & Co.*, agents for *Linder, Myers and Pariser*, Manchester.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Gumbrell *v.* Swale R.D.C.

Hawke, J. 1st and 2nd December, 1936.

LOCAL GOVERNMENT—PUBLIC HEALTH—STRUCTURES ON WHEELS — WHETHER "TEMPORARY BUILDINGS" — DEMOLITION OF BY LOCAL AUTHORITY—REMOVAL DIFFICULT IF NOT IMPOSSIBLE — LIABILITY — PUBLIC HEALTH ACTS AMENDMENT ACT, 1907 (7 Edw. vii, c. 53), s. 27.

The plaintiff was the owner of land on which were two caravans on wheels which he used from time to time as living accommodation. The caravans consisted in the one case of an obsolete single-deck omnibus, and in the other of a motor van adapted for use for human habitation. The caravans were installed on the land after the 28th November, 1932. By an order of the Minister of Health, dated the 7th November, 1932, s. 27 of the Public Health Acts Amendment Act, 1907, was put in force in the parish in which the plaintiff's land was. The plaintiff did not apply for permission to instal the caravans as required by s. 27. In 1934, the plaintiff undertook, within fourteen days, either to pull down or remove the caravans or to make application under s. 27 for permission to erect each of them as a temporary building. The plaintiff failed to comply with the undertaking: the defendants, in 1935, after notifying the plaintiff by letter, pulled down the caravans. The defendants contended that what was done was within their statutory powers in that behalf. The plaintiff contended that both vehicles were movable and that the defendants were not entitled to demolish them. He accordingly claimed damages.

HAWKE, J., said that, although it had been suggested that there was some excess in what the defendants had done, it was agreed that the real question was whether the lorry and the 'bus were temporary buildings. He had come to the conclusion that the 'bus was and the lorry was not. He accepted gratefully the definition of a temporary building which MacKinnon, J., had given in *Ruislip-Northwood U.D.C.*

v. *Lee* (1931), 29 L.G.R. 335, and he accepted it the more gratefully having regard to the fact that with the motor lorry in the present case it was a very near thing. The 'bus had been brought to the place where it stood for the purpose for which it had always been there, in order to provide a cheap and handy dwelling. It was intended to be as permanent as it was capable of being. He (his lordship) had no hesitation in saying that it was a temporary building within the meaning of the Act. The defendants had come to the conclusion that it was not removable in view of its position. It was on the top of a hill on firm ground, but there was no doubt that difficulty would arise if it were moved down, owing to the time of the year and the nature of the soil. He (his lordship) was not satisfied that it was absolutely impossible to get the 'bus away. It was, however, very nearly so. The defendants were justified in demolishing it, and the plaintiff was accordingly not entitled to damages with regard to it. As to the lorry, that had been adapted for use as a kind of bedroom. It came very near to being a dwelling. Unlike the 'bus, however, it had not been brought to where it was in order that it might afford shelter and residence. It had been brought there in the first instance for the purpose of removing timber and for other agricultural purposes, and, although it had for a period been used at week-ends for sleeping, he (his lordship) could not say that it had definitely ceased to be a motor lorry. That being so, the plaintiff had a cause of action, and was entitled to damages in respect of the lorry, and to that extent there must be judgment in his favour.

COUNSEL: *J. McGuckin*, for the plaintiff; *Erskine Simes*, for the defendants.

SOLICITORS: *Adrian De Fleury & Co.; Kingsford, Dorman & Co.*, agents for *Guy Tassell*, Faversham.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* Jackson.

Lord Hewart, C.J., Talbot and Singleton, JJ.
30th November, 1936.

CRIMINAL LAW—MURDER OR MANSLAUGHTER—ONUS.

Appeal against conviction.

The appellant was in arrears with his rent, and in addition owed money, for the repayment of which he was not being pressed, to the family of his landlady. On the 30th June, 1936, he told the landlady that he was going to collect money owed to him at Catterick. He went to Sunderland, however, and returned with money with which he paid his debts. At about the time when the appellant arrived home, his aunt was found dead in her house, with a poker and a broken bottle lying near her. Evidence was given that she had been killed by violent blows apparently given with the bottle. When questioned later, the appellant said, *inter alia*, that his aunt had called him names. He hit her with his fist and afterwards with the beer bottle, took some money, and then left. The jury having found the appellant guilty, Goddard, J., sentenced him to death. He appealed on the ground that the judge had wrongly directed the jury with regard to the onus of proof when the question arose whether the crime was murder or manslaughter. There was also an application for leave to call further evidence.

LORD HEWART, C.J., giving the judgment of the court, said that the further evidence which it was desired to call was quite superfluous, and counsel in the court below had very properly taken the responsibility of not calling it. On the main ground of appeal, the question was whether the prisoner was guilty of manslaughter or murder. The alleged foundation for anything which in the circumstances deposed to could be said to reduce the crime to manslaughter was of the thinnest and most unsatisfactory character. It was perfectly true, as counsel for the Crown had frankly admitted, that the summing-up did not contain the particular expressions used in *Woolmington* v. *Director of Public Prosecutions* [1935] A.C. 462, a case to which far too much importance had been attached. That case merely made clear the well settled principle of English law that, in a charge of murder, while the prosecution must prove its case beyond all reasonable doubt, the defence was under no such onus, but need only raise a reasonable doubt in the minds of the jury. But in the present case the judge had in at least two passages made the matter sufficiently plain. It was necessary to draw a distinction between two things: there was first of all an issue, which was a mere question of evidence, whether there was a real doubt whether certain facts had been proved; and then an issue whether there was a real doubt as to the inference properly to be drawn from the facts. It was enough for the defendant if the result of the whole matter was to leave any real doubt in the minds of the jury. Here the summing-up did leave it open to the jury to reduce the crime to manslaughter if they felt any reasonable doubt. The jury in twenty-five minutes came to the conclusion that it was a case of wilful murder, and they could not have properly come to any other conclusion. The appeal must be dismissed.

COUNSEL: *H. I. P. Hallett*, K.C., and *Harvey Robson*, for the appellant; *Paley Scott*, K.C., and *H. R. B. Shepherd*, for the Crown.

SOLICITORS: *Registrar of Court of Criminal Appeal: Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Societies.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 30th November, at 8 p.m. Mr. F. R. McQuown proposed the motion: "That in the opinion of this House the non-smoker is both immoral and revolting." Mr. O. T. Hill opposed. Messrs. Owens, Bartholomew, Miss Colwill, Mrs. McQuown (a visitor), Mr. Wood-Smith, Miss Cole (a visitor), Messrs. Holford, Sharp, Raffetty, Mrs. Mulligan (a visitor), and Mr. Vine Hall also spoke, and Mr. McQuown replied. The motion was put to the House and carried by two votes. The House adjourned at 9.20 p.m. Attendance 30, including 10 visitors.

Law Students' Debating Society.

At a meeting of the Society held at the Law Society's Court Room, on Tuesday, 24th November (Chairman, Mr. J. R. Campbell Carter), the subject for debate was: "That the case of *Trollope & Sons* v. *Caplan* [1936] 2 K.B. 382 was wrongly decided." Mr. G. A. Russo opened in the affirmative. Mr. S. C. Baron opened in the negative. Mr. C. O'Connor seconded in the affirmative. Mr. P. D. Warren seconded in the negative. The following members also spoke: Messrs. C. A. G. Simkins, L. C. Long, R. W. Rainsford Hannay, R. E. Selby, A. T. Wilson, G. M. Parbury, M. C. Green, and W. M. Pleadwell. The motion was lost. There were twenty-six members and five visitors present.

The Union Society of London.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 25th November, at 8.15 p.m., the President, Mr. S. R. Lewis, being in the chair. Mr. H. F. Ryan proposed the motion: "That financial and commercial speculation should be prohibited." Mr. H. M. Fraser opposed, and Messrs. J. C. Irwin, A. D. Russell-Clarke, the President and Mr. Robert W. Orme also spoke. Mr. Ryan replied. Upon division, the motion was carried by two votes.

A meeting of the Society was held at the Middle Temple Common Room, on Wednesday, the 2nd December, at 8.15 p.m., the President (Mr. S. R. Lewis) being in the chair. Mr. Robert W. Orme proposed the motion. Mr. Herbert Moses opposed, and Messrs. C. R. Hurle-Hobbs, E. J. Rendle, A. D. Russell-Clarke, A. Sandilands, H. M. Fraser and D. W. Dobson also spoke. Mr. Orme replied. Upon division the motion was lost by one vote.

The Annual Ladies' Night Debate will be held in the Old Hall, Lincoln's Inn (by kind permission of the Benchers), at 8, p.m., on Wednesday, 9th December. Mr. Bertrand Russell, F.R.S. will move: "That wars will continue to plague the world unless the general public adopts the pacifist attitude." Visitors are invited to attend.

The Hardwicke Society.

A meeting of the Society was held on Friday, 27th November, at 8.15 p.m., in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. J. Reginald Jones moved: "That Food is the most important thing in the world." Mr. G. E. Crawford opposed. There also spoke Mr. Scholefield, Mr. Wigan, Mr. Gallagher, Mr. Newman Hall, Mr. Campbell Prosser, Mr. Grieves, Mr. Llewellyn Thomas (Hon. Treasurer), Mr. McNabb, Mr. Sturge (Hon. Sec.), Mr. Harper, Mr. Willis and Mr. Hunt. The hon. mover having replied, the House divided, and the motion was carried by three votes.

University of London Law Society.

A debate was held on Tuesday, 24th November, at University College, Gower Street. The subject was "That in the opinion of this House there is one law for the rich and another for the poor." The motion was proposed by Mr. Davis and seconded by Mr. Ellis. The motion was carried by twelve votes to nine. There also spoke: Messrs. Sacker, Levy, Poteliokhoff, Stranders, Grunsban, Gill and Corbally.

The weekly meeting was held at University College, Gower Street, on Tuesday, 1st December, the President (Mr. Betuel, barrister-at-law) in the chair.

A vote of condolence was passed, and the hon. secretary (Mr. K. Chand) was requested to write a letter of sympathy to Lady Deller expressing sorrow at the death of Sir Edwin Deller, Principal of the London University.

Mr. Gill read a very informative and entertaining paper on "Some legal aspects of the trial of Charles I," and an impromptu debate followed, and the following spoke: Misses Blant and Kennedy, and Messrs. Bilimoria, Neville Gill, K. Chand, Davis, Compton, Cuthbert Smith and Flood.

The Dublin Law Students' Debating Society.

A meeting of the Society was held in King's Inns on Thursday, 26th November, with Mr. Fahy, B.L., in the chair. The purpose of the meeting was to hold a general debate, namely, "That war is no cure for the ills of a nation." The affirmative was spoken from by Messrs. Mason, McDermott and D. N. Cadhaigh, while Mr. McDevitt (Auditor) and Mr. Bradfield-England spoke from the negative point of view. The Chairman, after hearing lengthy arguments from both sides, put the motion to the house, which was carried by a substantial majority.

The Solicitors' Managing Clerks' Association.

Some Anomalies of Income Tax.

This Association held a meeting at Inner Temple Hall on 27th November, with Lord Justice Greene in the Chair. Mr. J. H. Bowe delivered a lecture entitled "Some Anomalies and Pitfalls in Relation to Income Tax." He suggested that the anomalies of the income tax system were small compared with its enormous size. It included over fifty Acts, the first of which had been passed in 1799, and had spread to the majority of the countries of the Empire and affected the lives of some 400 million people. During the last hundred years it had been difficult for the draftsmen of taxing statutes to overtake the complication of life. Income tax cases were chiefly brought by taxpayers who found themselves in abnormal positions with a very large aggregate assessment. The tenant occupier who had paid his Sched. A tax must deduct it, if at all, "out of the first payment thereafter made on account of rent," provided that he could not deduct any greater sum than the amount of tax charged on and actually paid by him. In these days of tax at 4s. 9d. in the pound, the single yearly instalment paid in January might be greater than the next quarterly payment of rent in March, and there was no statutory provision to enable the tenant to deduct the balance of tax from the June quarter's rent. The Codification Committee proposed to remedy this position, but the further difficulty might arise that no subsequent rent might be payable, in which case the tenant has no remedy against the landlord; *British Photomaton Ltd.* v. *Henry Playfair, Ltd.* [1933] 2 K.B. 508. The Committee had proposed that in such a case the tenant should have a right of action.

Another pitfall into which the taxpayer was often invited by the inspector was that if A, the tenant occupier, paid a rent of £1,000 to B, the mesne landlord, who paid a ground rent of £800 to C, his over-landlord, and A became insolvent and disappeared owing arrears of rent and Sched. A tax, the inspector might invite B to pay the tax. B was then in a difficult position. He might want to assign his interest in the premises but could not get a purchaser until the Sched. A liability was cleared, for by s. 164 of the Income Tax Act, 1918, if lands charged under Sched. A were unoccupied and no distress could be found thereon at the time the tax was payable, the collector could at any future time distrain on anything he found on the lands. If B paid the tax owed by A he could not deduct it from his ground rent, because B, having received no rent, would have had no tax deducted from him: Sched. A, No. VIII, r. 4. This point had been decided in *Re The Piccadilly Theatre* (1928) *Ltd.*, 14 T.C. 12, but the Codification Committee did not seem to have dealt with the position.

Change of Occupation of Premises.

Perhaps the chief defect of Sched. A was the lack of a comprehensive and logical scheme for apportioning the liability to tax when there had been a change of occupation of ownership. If a tenant-occupier A vacated his house next Christmas and tenant-occupier B moved in, the tax could not be levied unless the date of payment had arrived, and therefore the person *prima facie* responsible for the 1936–37 Sched. A tax payable on the 1st January, 1937, was B, the occupier for the time being at that date. The year 1936–37 was a year of re-valuation, and the year before was a preparatory year, and the attention of the inspector might also have been called to the fact that there were extensive structural improvements in the house in 1934, and he might have caused additional assessments to be made for the years 1934–35 and 1935–36, which became final and binding. Moreover, the additional assessments might be "signed and allowed" on the 30th January, 1937, so that the tax became payable on the 31st January. B was *prima facie* responsible for this tax, which might amount to a considerable sum and about which he might not have had the slightest suspicion when he took possession at Christmas. To escape the tax he must be able to point to a previous occupier for the period 1934–36 who was either an owner, occupier or had some beneficial occupation. A probably did not fit this description, because he was a normal tenant paying a rent equal to or in excess of the net annual valuation. B must therefore suffer the tax for the three years unless he could pass it on to his landlord. He could pass on the tax on the first quarter of 1937, but probably not more.

Mr. Bowe dealt with some of the pitfalls which might arise from the use of the word "liabilities" in conveyancing and commercial documents without words of qualification.

In conclusion he said that the worst pitfall was failure to appreciate that the proper solution of very many important income tax problems depended not upon income tax laws or accountancy but on points of general law, such as the construction of documents, the Sale of Goods Act, and company law. In advising the taxpayer it was, therefore, important to remember who was the real adversary. He was not the inspector of taxes but the Solicitor's Department, a staff of able and experienced lawyers who carried the general burden of defending the Act against inroads.

Parliamentary News.

Progress of Bills.

House of Lords.

Diseases of Fish Bill.
Reported, without amendment. [1st December.
Divorce (Scotland) Bill.
Read First Time. [1st December.
Edinburgh Chartered Accountants Annuity, etc., Fund (Consolidation and Amendment) Order Confirmation Bill.
Reported. [1st December.
Firearms Bill.
Read Second Time. [2nd December.
Geneva Conventions Bill.
Read Second Time. [2nd December.
Merchant Shipping (Carriage of Munitions to Spain) Bill.
Read First Time. [2nd December.

Railway Freight Rebates Bill.
Read Third Time. [1st December.
Voluntary Euthanasia (Legislation) Bill.
Second Reading negatived. [1st December.

House of Commons.

Annual Holiday Bill.
Read Second Time. [27th November.
Edinburgh Chartered Accountants Annuity, etc., Fund (Consolidation and Amendment) Order Confirmation Bill.
Read Third Time. [30th November.
Merchant Shipping (Carriage of Munitions to Spain) Bill.
Read Third Time. [1st December.
Ministry of Health Provisional Order (Earsdon Joint Hospital District) Bill.
Read First Time. [30th November.
Public Order Bill.
Reported. [26th November.
Railway Freight Rebates Bill.
Read First Time. [1st December.
Trunk Roads Bill.
Reported, with Amendments. [30th November.
Wild Birds Protection (Scotland) Bill.
Read First Time. [1st December.

Questions to Ministers.

HIGH COURT OF JUSTICE (OFFICIAL SHORTHAND WRITERS).

Mr. LOFTUS asked the Attorney-General whether it is the intention of the Government to publish the report of the committee, presided over by Mr. Justice Atkinson, which has inquired into the subject of official shorthand writing in the High Court of Justice; what conclusions the committee have arrived at; and whether any decision has been taken as to future practice on this matter.

The ATTORNEY-GENERAL (Sir Donald Somervell): When my Noble Friend the Lord Chancellor has the opportunity of considering the recommendations contained in the report, to which the hon. Member refers, he will at the same time take into consideration the question as to whether the report shall be published. [2nd December.

COUNTY COURTS (AMENDMENT) ACT, 1934.

Mr. DAY asked the Attorney-General whether he will give particulars of any proceedings that have been instituted under the County Courts (Amendment) Act, 1934, against any persons or debt collectors who have written letters purporting to have the appearance of being issued by the county courts.

Commander SOUTHBY (Lord of the Treasury): I have been asked to reply. As far as my hon. and learned Friend is aware, proceedings have been taken in one case under Section 31 of the County Courts (Amendment) Act, 1934. The defendant pleaded guilty and was fined £10 and ordered to pay two guineas costs. [30th November.

SUMMARY JURISDICTION COURTS (FINES).

Mr. DENVILLE asked the Home Secretary whether he is aware that clerks to the magistrates in several districts fail to acknowledge the receipt of fines sent through the post or to give stamped receipts of payments over £2; and will he circularise all benches of magistrates with instructions to remedy this grievance.

Mr. LLOYD: My right hon. Friend recognises the desirability of a proper acknowledgment being sent to persons from whom payments are received through the post, and thinks that it is the practice at most Courts of Summary Jurisdiction. He has no authority to issue instructions to magistrates or their clerks in this matter, and a general circular on the subject would appear to be unnecessary, but if the hon. Member will let my right hon. Friend know of any particular Courts which he has in mind where this practice does not obtain, he will be glad to consider the question of asking them if they can arrange to adopt it. [2nd December.

HOUSING (LEASES).

Mr. JAMES GRIFFITHS (for Mr. HOPKIN) asked the Attorney-General whether his attention has been called to the large number of long leases on dwelling-houses which are now terminating or about to terminate; and whether he is prepared to take any and, if so, what action to alleviate the hardship consequent on the termination of such leases.

THE SOLICITOR-GENERAL: As far as the position on termination is concerned, I would draw the hon. Gentleman's attention to Section 18 of the Landlord and Tenant Act, 1927, which prevents an unreasonable use being made of the covenant to repair in cases where the buildings are to be pulled down or structurally altered. My Noble Friend the Lord Chancellor has had his attention drawn to certain other cases of hardship arising out of the technical breach of long leases, and he is making inquiries to see whether such cases would justify legislation and could be rectified by an amendment of the law or otherwise. [25th November.

Legal Notes and News.

Honours and Appointments.

His Majesty has been pleased to approve the appointment of Sir MAURICE GWYER, K.C.B., K.C.S.I., K.C., as the first Chief Justice of India, to take effect on 1st October, 1937, the date approved by Parliament for the constitution of the Federal Court. Sir Maurice Gwyer was called to the Bar by the Inner Temple in 1903, and took silk in 1930.

His Honour A. W. BAIRSTOW, K.C., has been elected Treasurer of the Inner Temple for the year 1937. LORD HEWART, Lord Chief Justice, has been elected Reader for the Lent Vacation.

LORD ATKIN has for the second time been elected Treasurer of Gray's Inn, his new term of office being for the year 1937. Lord Atkin's first term was in 1914. Lord Morison has been elected Vice-Treasurer.

The Minister of Transport has, after consultation with the Lord President of the Court of Session, appointed Mr. W. D. PATRICK, K.C., to be a Deputy-Chairman of the Road and Rail Traffic Appeal Tribunal (mainly for hearings in Scotland) to succeed Sheriff A. C. Black, K.C., who has resigned.

Mr. J. A. FAIRCLOUGH, Senior Assistant Solicitor, Wigan, has been appointed Deputy Town Clerk of Yarmouth. Mr. Fairclough was admitted a solicitor in 1933.

Mr. C. TREWAVAS, solicitor, Town Clerk of Stretford, has been appointed Clerk to the Stretford and District Electricity Board. Mr. Trewavas was admitted a solicitor in 1928.

Wills and Bequests.

Mr. James Hargreaves, of Broadmoor Asylum, formerly solicitor of Nelson, Lancs, left estate of the gross value of £49,809, with net personalty £49,322. He left £100 each to the Poplar Hospital for Accidents, the British and Foreign Sailors' Society, the Church of England Temperance Society, Dr. Barnardo's Homes, the Soldiers' and Sailors' Families' Association, the Manchester and Salford Boys' and Girls' Refuges and Homes and Children's Aid Society, the Wesleyan Methodist Missionary Society, and the Young Men's Christian Association, Nelson; and, subject to life interests, the remainder to the Mayor, Aldermen, and Burgesses of Nelson, to be used for one or more specified local purposes.

Notes.

Mr. John Wilmot Reader Harris, of Brasenose College, Oxford, has been elected Eldon Law Scholar.

The forty-fifth annual dinner of the Chartered Institute of Secretaries will be held at Guildhall, London, on Wednesday, 9th December, at 6.45, for 7.30 o'clock.

Mr. E. C. Harris, who for more than thirty years has been Clerk to the Justices of the Sittingbourne Petty Sessional Division, received a presentation at the Town Hall last Monday to mark his retirement. Mr. Harris was admitted a solicitor in 1891.

The Lord Justice Holker Junior Scholarship of 1936 (£100 a year for three years) has been awarded by Gray's Inn to Mr. Josef Unger, LL.B., of the University of London. The society's entrance scholarship of 1936 (£100 a year for three years) has been awarded to Mr. T. C. Thomas, of Trinity Hall, Cambridge.

The Council of Legal Education have appointed Mr. Richard Lyons Alers Hankey, M.A., LL.B., Cambridge, and Mr. George Gillespie Baker, B.A., B.C.L., Oxford, both of the Middle Temple, to assist in giving practical instruction in the work of the profession at the Inns of Court School of Law to students preparing for Part II of the Bar Examination.

Mr. Justice Travers Humphreys, in sentencing a motorist to six months' imprisonment at Stafford Assizes last Wednesday, said: "While I sit here, people who are convicted of driving while under the influence of drink will have one penalty and one penalty only applied to them, and that is imprisonment. In my view, every person who drives a motor-car while under the influence of drink should be sent to prison."

COMMITTEE ON SHARE PUSHING.

In answer to a question in the House of Commons on the 26th November, the President of the Board of Trade announced that he had appointed a Departmental Committee with the following terms of reference: "To consider the operations commonly known as share-pushing and share-hawking and similar activities and to report what, if any, action is desirable." The composition of the committee is as follows: Sir Archibald Bodkin, K.C.B. (Chairman), Mr. Lionel Cohen, K.C., Mr. Charles L. Dalziel, Sir Malcolm N. Hogg, Mr. J. McEwan, Mr. E. T. A. Phillips, M.B.E., Mr. C. G. Vickers, V.C., Mr. R. P. Wilkinson. The Secretary to the committee is Mr. J. G. Henderson, O.B.E., M.C. Persons wishing to communicate with the committee should write to the Secretary to the committee at the Board of Trade (Companies Department), 4, Central Buildings, Matthew Parker Street, London, S.W.1.

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

All contributions (including correspondence) should be typewritten and on one side of the paper only, and must be accompanied by the name and address of the contributor.

The Editor is unable to accept any responsibility for the safe custody of contributions submitted to him, and copies should therefore be retained. The Editor will, however, endeavour in special circumstances to return unsuitable contributions within a reasonable period, if a request to this effect and a stamped addressed envelope are enclosed with the manuscript.

Court Papers.

Supreme Court of Judicature.

Date.	Emergency Rota.	Appeal Court No. I.	Group I. Mr. Justice Eve. Witness. Part II.	Group I. Mr. Justice Bennett. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Dec. 7	More	Jones	*More	Andrews
,, 8	Hicks Beach	Ritchie	*Hicks Beach	Jones
,, 9	Andrews	Blaker	Blaker	Hicks Beach
,, 10	Jones	More	*Jones	Blaker
,, 11	Ritchie	Hicks Beach	*Ritchie	More
,, 12	Blaker	Andrews	Andrews	Ritchie

	Group I. Mr. Justice Crossman. Witness. Part I.	Mr. Justice Clauson. Witness. Part I.	Group II. Mr. Justice Luxmoore. Non-Witness.	Mr. Justice Farwell. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
Dec. 7	*Ritchie	*Hicks Beach	Blaker	Jones
,, 8	*Blaker	*Andrews	More	Ritchie
,, 9	*Jones	*More	Ritchie	*Andrews
,, 10	*Hicks Beach	Ritchie	Andrews	More
,, 11	Andrews	*Blaker	Jones	Hicks Beach
,, 12	More	Jones	Hicks Beach	Blaker

*The Registrar will be in Chambers on these days, and also on the day when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 17th December, 1936.

	Div. Months.	Middle Price 2 Dec. 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	115½	3 9 3	2 19 3
Consols 2½%	JAJO	84¼xd	2 19 4	—
War Loan 3½% 1952 or after	JD	106	3 6 0	3 0 5
Funding 4% Loan 1960-90	MN	117¼	3 8 3	2 19 1
Funding 3% Loan 1959-69	AO	101⅜	2 18 11	2 17 10
Funding 2½% Loan 1956-61	AO	92¾	2 13 11	2 18 5
Victory 4% Loan Av. life 23 years	MS	115½	3 9 5	3 1 3
Conversion 5% Loan 1944-64	MN	117⅛	4 5 4	2 6 5
Conversion 4½% Loan 1940-44	JJ	107½	4 3 9	2 17 4
Conversion 3½% Loan 1961 or after	AO	107	3 5 5	3 1 7
Conversion 3% Loan 1948-53	MS	103⅜	2 17 10	2 12 0
Conversion 2½% Loan 1944-49	AO	100⅜	2 9 7	2 7 9
Local Loans 3% Stock 1912 or after	JAJO	96⅞xd	3 2 0	—
Bank Stock	AO	377	3 3 8	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	87xd	3 3 3	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96xd	3 2 6	—
India 4½% 1950-55	MN	115	3 18 3	3 1 8
India 3½% 1931 or after	JAJO	98½xd	3 11 1	—
India 3% 1948 or after	JAJO	86½xd	3 9 4	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	114½	3 9 10	2 14 10
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 13 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109xd	4 2 7	2 11 2
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	94½	2 12 11	2 17 7
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109xd	3 13 5	3 7 0
Australia (C'mm'nw'th) 3% 1955-58	AO	96	3 2 6	3 5 2
Canada 4% 1953-58	MS	112	3 10 10	3 0 2
*Natal 3% 1929-49	JJ	101xd	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100xd	3 10 0	3 10 0
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	115	3 9 7	3 3 4
*Queensland 3½% 1950-70	JJ	100xd	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 18 10
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	98xd	3 1 3	—
*Croydon 3% 1940-60	AO	101	2 19 5	2 13 1
Essex County 3½% 1952-72	JD	105xd	3 6 8	3 1 11
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106xd	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	82	3 1 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	94½	3 3 6	—
Manchester 3% 1941 or after	FA	98	3 1 3	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	—
Metropolitan Water Board 3% "A" 1963-2003	AO	99	3 0 7	3 0 8
Do. do. 3% "B" 1934-2003	MS	99	3 0 7	3 0 8
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 16 11
Middlesex County Council 4% 1952-72	MN	113½	3 10 6	2 18 7
† Do. do. 4½% 1950-70	MN	115½	3 17 11	3 2 4
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 1 11
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	115	3 9 7	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	125½	3 19 8	—
Southern Rly. 4% Debenture	JJ	112xd	3 11 5	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111½xd	3 11 9	3 6 8
Southern Rly. 5% Guaranteed	MA	133½	3 14 11	—
Southern Rly. 5% Preference	MA	125½	3 19 8	—

*Not available to Trustees over par. †Not available to Trustees over 115
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.